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NEW YORK STATE DEPARTMENT OF LABOR

ANNUAL REPORT

Dup. 17
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OF THE

New York (State)

INDUSTRIAL COMMISSION

FOR THE TWELVE MONTHS ENDED SEPTEMBER 30,

1915

TRANSMITTED TO THE LEGISLATURE APRIL 17, 1916



ALBANY
STATE DEPARTMENT OF LABOR
1916

ALBANY
J. B. LYON COMPANY, PRINTERS
1916

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STATE OF NEW YORK

No. 56

IN ASSEMBLY

APRIL 17, 1916

ANNUAL REPORT OF THE INDUSTRIAL COMMISSION

STATE OF NEW YORK

DEPARTMENT OF LABOR

ALBANY, *April* 17, 1916.

To the Legislature:

Pursuant to law, the annual report of the Industrial Commission for the year ended September 30, 1915, is herewith submitted.

Respectfully,

(Signed) JOHN MITCHELL,
Chairman;

(Signed) EDWARD P. LYON,

(Signed) LOUIS WIARD,

(Signed) JAMES M. LYNCH,

(Signed) W. H. H. ROGERS,
Commissioners.

By the Commission:

(Signed) HENRY D. SAYER,
Secretary.

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Part I
REPORT OF THE COMMISSION

[7]

REPORT OF THE INDUSTRIAL COMMISSION

To the Legislature:

Pursuant to the provisions of section 46 of the Labor Law, the Industrial Commission herewith presents its report of the operations of the Department of Labor for the year ending September 30th, 1915. Included herewith and made part hereof are reports of the chiefs of the various bureaus of the Department, together with statistical tables and other data.

The report of the State Insurance Fund, submitted herewith, is made for the calendar year ending December 31st, 1915, rather than for the fiscal year ending September 30th, 1915. The advantages of reporting for the calendar year will be apparent when it is considered that the various stock and mutual insurance companies writing workmen's compensation insurance report to the Superintendent of Insurance for the calendar year. Moreover, the policy periods in the State Insurance Fund commence on January 1 and July 1, and the calendar year thus becomes the natural reporting period.

In this report we shall discuss briefly the history and organization of the Department of Labor and the work in its various bureaus. The separate bureau reports discuss fully the activities of those bureaus.

HISTORY

The Legislature of 1915 was confronted with the fact that there were two great state departments dealing in an intimate way with the industries of the state.

The Department of Labor had been in existence for many years and as the state, from time to time, undertook new activities which were more or less closely related to labor and the industries of the state, provision was made for dealing with these subjects in the Department of Labor. This resulted in the creating of new bureaus in that Department from time to time.

There was also in the Department of Labor an Industrial Board composed of four members appointed by the Governor, and the

Commissioner of Labor, who was *ex-officio* an additional member and chairman. The Industrial Board was empowered to enact rules and regulations to carry into effect the provisions of the Labor Law with respect to sanitation, guarding of dangerous machinery, minimizing fire hazards, temperature conditions, and protection against dangerous fumes and gases. The Industrial Board also had power, under certain conditions and with certain limitations, to modify the law in order to avoid imposing unnecessary hardships upon certain industries.

It should be noted that the Legislature, by the enactment of chapters 234 and 347 of the Laws of 1915, transferred to the Department of Labor that part of the work of the former Fire Marshal's Department that related to the inspection of boilers in factories and the storage and handling of explosives and the licensing of explosive magazines.

Late in 1913, the Legislature enacted the first workmen's compensation law in this state, after the adoption of a constitutional amendment providing for such legislation. The law was re-enacted and amended in the early part of 1914. Under this law there was created the State Workmen's Compensation Commission composed of five commissioners appointed by the Governor, with the Commissioner of Labor *ex-officio* an additional member. The Compensation Law became effective July 1, 1914, and from and after that date all industrial accidents arising out of and in the course of employment in any of the hazardous employments named in the law, became compensable. This entailed a tremendous amount of work and the rapid creation of an organization to handle the work of examining claims and otherwise executing the provisions of the Compensation Law. Industrial accidents at the rate of approximately 1,000 a day were being reported to the Commission, about 150 of which each day were found to be compensable and became the subject of awards and payments by the Commission.

On April 1, 1915, the Compensation Law was amended in very important particulars, allowing direct settlement of claims by the employer and employee, and advance payments by the employer and his reimbursement for such advance payments out of any award or agreement that might subsequently be made, and also requiring

all payments of compensation to be made directly by the employer, instead of by the Commission. It was expected that these amendments to the law would result in decreasing to a considerable extent the volume of work which the Compensation Commission had to do.

It was recognized by the Legislature that the work of enforcing the Compensation Law and the provisions of the Labor Law might properly be entrusted to a single organization, and that greater efficiency and a more economical administration of all the laws relating to labor and industry might be effected by the establishment of a single department to deal with all of these laws.

Accordingly the Legislature enacted chapter 674 of the Laws of 1915 which placed in the hands of a single Commission the responsibility for the enforcement of the Labor Law and the Workmen's Compensation Law and the administration of the State Insurance Fund.

There were thus abolished the following positions occupied by the following incumbents:

Commissioner of Labor, James M. Lynch.

Members of the Industrial Board:

Richard J. Cullen,
Miss Pauline Goldmark,
Charles G. Flaesch,
John G. Walsh.

Secretary of the Industrial Board, John Williams.

Workmen's Compensation Commissioners:

Robert E. Dowling, Chairman;
John Mitchell,
Thomas Darlington,
Howard T. Mosher,
J. Mayhew Wainwright.

Secretary of the Workmen's Compensation Commission, Frank A. Spencer.

It should be noted that Mr. Wainwright had resigned as a member of the Workmen's Compensation Commission some time prior to the passage of the act abolishing that Commission and the

vacancy caused by his resignation had not been filled at the time the Commission was abolished.

To take the place of the bodies thus abolished, there was created an enlarged Department of Labor, at the head of which was the Industrial Commission, composed of five members appointed by the Governor.

REORGANIZATION

On June 1st, 1915, the Industrial Commission assumed charge of the Department of Labor.

The Commission was composed of the following members:

John Mitchell, Chairman, Mt. Vernon.

Edward P. Lyon, Commissioner, Brooklyn.

James M. Lynch, Commissioner, Syracuse.

Louis Wiard, Commissioner, Batavia.

William H. H. Rogers, Commissioner, Rochester.

At the first meeting of the Commission, held in the Capitol at Albany, the Commission appointed Henry D. Sayer of New York as secretary.

The positions of First and Second Deputy Commissioner of Labor, General Manager of the Workmen's Compensation Commission and Deputy Commissioners of the Compensation Commission having been abolished, the Commission was obliged to make temporary appointments of deputies to keep going the various bureaus of the Department. Accordingly the Commission appointed as First Deputy Commissioner, in charge of the Bureau of Inspection, Frank J. Prial of Brooklyn; as the Second Deputy Commissioner, in charge of the Bureau of Workmen's Compensation, William C. Archer of Mt. Vernon, and as Third Deputy Commissioner, in charge of the Bureau of Mediation and Arbitration, William C. Rogers of Rochester. Messrs. Prial and Rogers had been respectively First and Second Deputy Commissioners of Labor, and Mr. Archer had been the General Manager of the Workmen's Compensation Commission. The Commission also appointed Jeremiah F. Connor of Oneida, Counsel to the Commission, Mr. Connor having been Chief Counsel of the Workmen's Compensation Commission.

Mr. Prial was succeeded on July 16th, 1915, by James L. Gernon of Brooklyn as First Deputy Commissioner in charge of the Bureau of Inspection, Mr. Gernon having been the Chief Mercantile Inspector of the Department of Labor. Mr. Rogers was succeeded by Frank B. Thorn as Third Deputy Commissioner in charge of the Bureau of Mediation and Arbitration. The appointment of Mr. Archer as Second Deputy Commissioner in charge of the Bureau of Workmen's Compensation was made permanent. Subsequently Mr. Connor resigned as Counsel to the Commission and Robert W. Bonyngue was selected to succeed Mr. Connor on January 1, 1916.

The Industrial Commission, upon its organization, was confronted with the seriously pressing need of expediting the examination and hearing of claims for compensation by injured workmen and their dependents. Delay in this work for only a few days would have resulted in the accumulation of a vast number of cases with the consequent clogging of the machinery of the Department and would have brought distress and suffering to persons whose very means of livelihood depended upon the small sums of compensation to which they were entitled.

With all the vast amount of detail to be mastered by the new Commission, it would have been impossible for them to have given the requisite amount of attention to these cases and indeed had they been able to do so, the equally important work of other bureaus of the Department would have suffered. The Commission therefore decided at once to re-employ as Deputy Commissioners for the hearing of compensation cases, a number of the former Deputy Commissioners. Instead of the ten Deputy Commissioners employed by the Workmen's Compensation Commission to do this work, the Industrial Commission appointed six deputies, as follows, and assigned them to the work in the cities set after their names: Thomas J. Curtis, New York; Thomas J. Drennan, Brooklyn; Frank A. Tierney, Albany; Willard C. Richards, Syracuse; Cyrus W. Phillips, Rochester; George W. Batten, Buffalo. These six Deputy Commissioners were, under the consolidation law, placed in the classified Civil Service. There being no existing eligible list for the position, the appointments were allowed by the Civil Service Commission for a pro-

visional term until the establishment of an appropriate Civil Service list. Mr. Drennan in Brooklyn was subsequently superseded by David M. Stone. Mr. Tierney in Albany was superseded by William A. Abbott. Mr. Batten in Buffalo was superseded by James McLusky. The present incumbents having successfully passed the Civil Service examination, the appointments have become permanent.

The Industrial Commission, immediately after its organization, undertook a survey of the work of the Bureau of Workmen's Compensation, with the result that it was found possible to close three of the branch offices established by the former Compensation Commission. These offices were at 29 Broadway in lower Manhattan, 14th street and Courtlandt avenue in the Bronx, and Poughkeepsie, N. Y. The business of the lower Broadway and Bronx offices was transferred to the district office maintained at 171 Madison avenue, while the business of the Poughkeepsie office was transferred to the Albany office. Each of these offices had been in charge of a Deputy Commissioner at a salary of \$4,000 per annum and with a necessary complement of office force. Arrangements were promptly made to close the offices and to terminate the leases at the earliest dates practicable and with the least expense.

On July 15th, in order to carry out the provisions of the law relative to making the rules and regulations known as the Industrial Code and considering amendments and modifications thereof, and to assist the Commission in the performance of the duties that formerly devolved upon the Industrial Board, the Commission, with the approval of the State Civil Service Commission, appointed Richard J. Cullen of New York and Thomas C. Eipper of Brooklyn as Deputy Commissioners in the Bureau of Industrial Code.

DISTRIBUTION OF RESPONSIBILITY

The law creating the Industrial Commission provides (section 45 of the Labor Law) that, at the first or organization meeting of the Commission and annually thereafter, the Commission shall, by resolution, apportion among the Commissioners the administrative work involved in the performance of its duties. In accordance with this provision of the law, the Commission made the

following distribution of its responsibilities and apportionment of its duties:

Chairman Mitchell:

Bureau of Compensation, Agreements, Awards, Payments.

Commissioner Lyon:

State Insurance Fund, Self-insurance, Legal Bureau.

Commissioner Wiard:

Bureau of Industrial Code, Bureau of Statistics and Information, Bureau of Mediation and Arbitration.

Commissioner Lynch:

Bureau of Inspection, Bureau of Printing, Bureau of Fire Hazards, Boilers and Explosives.

Commissioner Rogers:

Bureau of Industries and Immigration, Bureau of Employment, Investments of the surplus and reserves of the State Insurance Fund.

Under this scheme of distribution of responsibility, while the individual Commissioners are not relieved in any way from their responsibility for the general management of the Department and the efficient administration of the law through all its various bureaus, the immediate responsibility for each bureau and the conduct of business in that bureau, is directly centered in the Commissioner supervising such bureau. All matters arising in such bureau that require the action of the entire Commission, or that should be reported to the Commission, are brought before it by the supervising Commissioner.

MEETINGS

The law creating the Industrial Commission provides that the Commission shall hold stated meetings "at least once a month at the office of the Department in Albany or in New York City, and shall hold other meetings when and where called by the Chairman or two members of the Commission." This is the minimum requirement of the law. As a matter of fact, however, the Com-

mission has been practically in continuous session since its appointment. Meetings are held on every Tuesday and Thursday for the transaction of the administrative business of the Department. In addition the Commission has held sessions for the trial of compensation cases, the making of awards and lump sum settlements on practically every Monday, Wednesday and Friday. The Commissioners have heard hundreds of cases and have taken thousands of pages of testimony. While the nature of the work of the Department is such as to make it necessary for the Commission to sit much of the time in New York City, still it has held numerous sessions in Albany, and has never failed to meet in the Capitol when the interests of the Department or the business coming before it have seemed to make it desirable to meet there.

ORGANIZATION OF THE DEPARTMENT

The Department of Labor is organized in the following bureaus and subdivisions:

OUTLINE OF ORGANIZATION

GENERAL ADMINISTRATION:

The Commissioners

The Secretary

Assistant Secretaries

Division of Accounts

Supplies

Hearing Stenographers

Telephone Operators

Mailing Division

Legal Bureau

Counsel

Assistants to Counsel

BUREAU OF INSPECTION:

First Deputy Commissioner

Factory Inspection Division

Mercantile Inspection Division

Homework Inspection Division

Division of Industrial Hygiene

BUREAU OF COMPENSATION:

Second Deputy Commissioner

Albany office

Deputy Commissioner

BUREAU OF COMPENSATION — (*Continued*) :

New York office
Deputy Commissioner
Brooklyn office
Deputy Commissioner
Syracuse office
Deputy Commissioner
Rochester office
Deputy Commissioner
Buffalo office
Deputy Commissioner
Division of Claims
Chief of Claims
Medical Division
Chief Medical Examiner
State Insurance Fund
Manager
Underwriting
Payroll auditing
Claims
Accounts
Actuarial Division
Actuary

BUREAU OF MEDIATION AND ARBITRATION:

Third Deputy Commissioner
Albany office
New York office

BUREAU OF STATISTICS AND INFORMATION:

Chief Statistician
Albany office
Division of General Labor Statistics
Division of Industrial Accidents
Division of Industrial Directory
Division of Special Investigations
Division of Publication
Editor of Official Bulletin
New York office
Assistant Chief Statistician

BUREAU OF INDUSTRIAL CODE:

New York office
Deputy Commissioners, two

BUREAU OF INDUSTRIES AND IMMIGRATION:

Chief Investigator
New York office
Buffalo office

BUREAU OF EMPLOYMENT:

Director
New York office
Albany office
Syracuse office
Rochester office
Buffalo office

BUREAU OF FIRE HAZARDS, BOILERS AND EXPLOSIVES:

Chief Engineer

BUREAU OF PRINTING:

Supervisor of Printing and Publications

The foregoing shows in brief the outline of the organization of the Department. It is impossible, however, to show the degree of interdependence of the various units of organization or to adequately present the relative importance or volume of business of the several bureaus and divisions. It is the hope, however, that a glance at the outline will suggest in a small way the problem confronting the Commission at the time of its appointment.

CONSOLIDATION OF OFFICES

In consolidating the Department, the Commission found itself with various offices, in different cities, in which were housed bureaus that now were under one central administrative control. Thus, in the City of New York, even after the closing up of the lower Broadway and the Bronx offices, there still remained four separate offices, located as follows: At No. 1 Madison avenue were located the general administrative offices of the Commission, Bureau of Workmen's Compensation, including the Division of Claims and the State Insurance Fund, together with the large public hearing room for the hearing of compensation claims. At No. 381 Fourth avenue were located the Bureau of Inspection, including the office of the First Deputy Commissioner, the Chief Factory Inspector for the First District, and five Supervising Factory Inspectors; Division of Mercantile Inspection, Division

of Homework Inspection, Division of Industrial Hygiene and the subdivision of Engineering; also the Bureau of Employment, Bureau of Industrial Code, Bureau of Mediation and Arbitration and Bureau of Statistics and Information. At No. 95 Madison avenue was located the Bureau of Industries and Immigration. At No. 171 Madison avenue was located a branch office of the Bureau of Workmen's Compensation for the investigation of local claims. The latter office might properly have been located with the main office of the Commission at No. 1 Madison avenue, but the quarters were already so crowded that consolidation at that point was impossible.

Appreciating the difficulties of the administration and supervision of offices so widely separated, as well as the confusion to the public and the great expense of New York City rentals, the Commission early undertook to effect a physical consolidation of these various bureaus, and before the close of the fiscal year, placed before the Trustees of Public Buildings a complete plan for the renting of suitable and adequate quarters in the Victoria Building, No. 230 Fifth avenue, corner Twenty-seventh street, in which might be brought together all of the various bureaus and activities of the Commission in the City of New York. These plans were approved and at the time of this writing the entire Department in New York City is housed under one roof.

In the City of Albany, the Department of Labor, prior to consolidation, had moved into new quarters in the westerly wing of the Capitol. The Bureau of Workmen's Compensation, however, continued to occupy the quarters rented for it by the former Workmen's Compensation Commission in the Arkay Building on State street. By a rearrangement of the offices assigned to the Department in the Capitol, and crowding together somewhat, it was found possible to provide suitable quarters for the Bureau of Compensation in the Capitol Building with the other bureaus of the Department. Greater efficiency is, therefore, now possible in the control of the work with the saving of a very considerable amount of rent.

Similarly, physical consolidations were effected in the offices of the Department in Buffalo and Rochester, resulting in each case in a saving of expense and increase in efficiency.

INDUSTRIAL COUNCIL

New York State has placed itself in the very forefront of progressive industrial states through the enactment of the provision for an Industrial Council to act as the advisor of the Industrial Commission. Section 40-a of the Labor Law as amended in 1915 provides in part as follows:

To advise the Commission, there shall be an Industrial Council, composed of ten members, appointed by the Governor. Five members of the Council shall be persons known to represent the interests of employees and five shall be persons known to represent the interests of employers.

That section further provides that the Council shall select as its chairman a person not a member of the Council and provides that the Secretary of the Commission shall act as Secretary of the Council. The duty is imposed upon this Council of advising the Industrial Commission with respect to all matters submitted to it by the Commission, particularly with regard to matters of general policy, and to co-operate with the Civil Service Commission in the preparation of lists of eligibles for positions in the Department of Labor requiring special training and fitness. The law provides also that no rule or regulation of the Commission, nor any amendment, modification or repeal thereof, may be enacted until the same shall have been submitted to the Industrial Council for their consideration and advice.

On August 30, 1915, the Governor appointed the following persons as members of the Industrial Council:

Representing the interests of employers:

Edward J. Barcalo, Buffalo, president Barcalo Manufacturing Co. ;
Carleton A. Chase, Syracuse, Syracuse Chilled Plow Co. ;
Irving T. Bush, Brooklyn, Bush Terminal Co. ;
Richard C. Stofer, Norwich, Norwich Pharmacal Co. ;
George E. Emmons, Schenectady, General Electric Co.

Representing the interests of employees:

James P. Holland, New York, president State Federation of Labor ;
John C. Clark, Buffalo, vice-president State Federation of Labor ;

Richard H. Curran, Rochester, secretary Molders' Union, Rochester;

Thomas M. Gafney, Syracuse, publisher of Industrial Weekly, Syracuse;

Miss Melinda Scott, New York, president Women's Trade Union League.

The members of the Council were called together by the Secretary on September 9th and thereafter elected Mr. J. Mayhew Wainwright of Rye, New York, as the Chairman of the Council.

The Council has met at least once in each month, has held special meetings on other occasions, and has advised the Industrial Commission and the Civil Service Commission with respect to the matters submitted to it.

The Commission regards it as unfortunate that the Legislature failed to provide for any compensation to members of the Industrial Council, or even for their ordinary traveling expenses. The members of the Council and the Chairman have exhibited a splendid spirit of devotion to the industrial welfare of the state in giving freely of their time, thought and abilities without compensation and even at considerable cost to themselves for traveling expenses. The Commission earnestly hopes that the Legislature will see fit to provide a suitable sum for compensation of the members and Chairman of the Council for each meeting attended by them, and in any case a fund for the payment of the traveling and hotel expenses of the members of the Council when engaged in their official duties.

In the business of the Council the representatives of the employers have met with the representatives of the wage earners and all have given thoughtful consideration to the problems before them. Already there is manifested a fine spirit of co-operation and of better understanding between the representatives of these great groups, which too often in the past have mistrusted and distrusted each other. From the beginning already made, it can safely be predicted that capital and labor will be brought closer together and that there will be a more sympathetic recognition of the rights and obligations of each.

The Council has organized itself into committees for the consideration of various phases of its work. Each committee is com-

posed of a representative of the employers and a representative of the employees. The committees are as follows:

Legislation: Messrs. Emmons and Holland.

Industrial Code: Messrs. Barcalo and Clark.

Workmen's Compensation and Accident Prevention: Messrs. Chase and Curran.

Civil Service: Messrs. Stofer and Gafney.

Mediation and Arbitration: Mr. Bush and Miss Scott.

BUREAU OF INSPECTION

The Bureau of Inspection, under the law, is under the direct charge of the First Deputy Commissioner. On July 16th, 1915, James L. Gernon was appointed First Deputy Commissioner and placed in charge of the bureau. Mr. Gernon had been in the Department for many years, having entered through the Civil Service, and at the time of his appointment as First Deputy, and for some years prior thereto, had been the Chief Mercantile Inspector of the Department. Mr. Gernon applied himself immediately to the problems of the bureau, particularly with a view to bringing up to a high state of efficiency the two great divisions of factory inspection.

Some reorganization of the bureau was undertaken. The so-called "Division of Appeals" was abolished and matters of appeal that could not be decided by the Supervising Inspectors and Chief Inspector were referred to the Bureau of Industrial Code to investigate and bring directly before the Commission.

In the latter part of 1914 the Fireproofing and Fire-Resisting Codes were adopted by the old Industrial Board, and following the adoption of these codes, many thousands of orders were issued, requiring the enclosure of stairways in factory buildings by partitions of fire-resisting material and requiring additional means of exit. Many of these orders imposed heavy financial burdens upon the owners of the property affected, requiring in some instances an almost complete remodeling and rearrangement of buildings, which at the time of their construction were built in complete conformity to the law as it then existed. The most intense opposition was encountered in seeking to enforce the provisions of the law with regard to factory exits, and for a long time compliances

with the orders were relatively few. In hundreds of cases, however, plans for the remodeling and alteration of buildings were filed with the Department for examination and approval. The subdivision of engineering was swamped with plans, and work was held up, awaiting their approval. A vast amount of time was utilized in the making of so-called "compliance visits" to ascertain whether orders issued on particular buildings had been complied with, or whether the work had been started or plans filed. Toward the latter part of the fiscal year, compliances became very much more numerous, and we are now able to report that the work of compelling compliance with the new fire protection laws is progressing rapidly.

Owing to the promotion of Mr. Gernon, the former Chief Mercantile Inspector, to be First Deputy Commissioner, a vacancy at the head of the Division of Mercantile Inspection was created. There being no existing eligible list for the position, the Civil Service Commission was requested to hold an examination for Chief Mercantile Inspector, and in the meantime, Mercantile Inspector Frank L. Fisher was assigned as Acting Chief of the Division. The Commission was unable under the law to compensate Mr. Fisher in any material way for his many months of patient and painstaking work and the assumption of large responsibility as such Acting Chief. The Commission desires to record, however, its high appreciation of the splendid service rendered by Mr. Fisher while in charge of the division and his loyal devotion to the interests of the Department.

BUREAU OF COMPENSATION

The Bureau of Compensation, as constituted under the consolidation act, is under the immediate charge of the Second Deputy Commissioner, William C. Archer. Mr. Archer has submitted a comprehensive and detailed report of the operations of this bureau, to which attention is directed, and Mr. F. Spencer Baldwin, Manager of the State Insurance Fund, has also submitted his report of the operations of the State Fund. Both of these reports are submitted herewith and reference is hereby made to them.

The bureau has been extraordinarily hardworking and efficient. Practically new, the organization has the work splendidly in hand. Claims are received, examined and put on for hearings in nearly every instance within two weeks after the claim has become compensable. Death cases and cases involving difficulties of proof naturally take somewhat longer.

In the Legislature of 1915 bitter controversy arose over the proposal to amend the Compensation Law in respect to direct payments by employers and to permit private agreements to be made between employers and injured workmen for their compensation. Laws providing for both were enacted to take effect April 1, 1915. By the direct payment of claims a tremendous burden of detail work in the matter of making payments has been gradually taken from the Commission and transferred to the shoulders of the employer, or his insurance carrier. Also many thousands of cases of claims for compensation have been settled by direct settlement between the employer and his employee. These agreements have been examined and approved by the Commission. While the law has not been in operation a sufficient time to warrant the drawing of final conclusions based upon ascertained facts, the Commission has not found sufficient evidence of abuses in connection either with private agreements or direct payments to warrant the belief that employees have not or will not receive the full amount of compensation to which they are entitled.

The passing of the administration of the Workmen's Compensation Law from the hands of the Workmen's Compensation Commission to the State Industrial Commission, has been effected without friction or any appreciable delay in the handling of claims.

In the administration of the Compensation Law, various matters have come to our attention, showing the necessity of amending the law in certain particulars. These matters are taken up under the heading of Legislative Recommendations.

STATE INSURANCE FUND

The growth and strength of the State Insurance Fund is a matter of much gratification to the Commission. In order that employers, who are compelled to insure their employees under the

Compensation Law, may have safe and complete insurance at the bare cost of such insurance, the state was obliged to set up and create a State Fund. The fund is and should be an aggressive competitor for business. The Commission does not believe that the State Fund should be a mere passive agency and dumping ground for bad risks that no company would insure. If it is to be of real service to its policy holders and serve effectively the interests of the people of the state, it must do a sufficiently large business to guarantee its complete safety and to serve as a useful and necessary check upon the rates demanded by the stock companies writing a similar class of business.

As a result of its activities, the State Fund has been the object of a most active campaign against it on the part of various insurance companies. An effort was made in 1915 to separate the State Insurance Fund from the jurisdiction of the Commission, and either to set it up as a separate department, or to place it under the supervision of the Superintendent of Insurance. This effort was not successful and in the consolidation of the Department of Labor and the Workmen's Compensation Commission, the State Fund passed into and became part of the enlarged Department. The Commission believes that it would be a mistake now to separate the State Fund from the other activities of the Commission.

The Industrial Commission which exercises oversight over all the activities of the state which are directly related to the welfare of the wage earners, properly should be the administrative head of the State Insurance Fund upon whom thousands of workmen are dependent for the payment of the compensation to which they may be or become entitled. The State Fund is now well beyond the point where it can be regarded as experimental or where any question can be raised as to its safety or the security of its policy holders.

As will more fully appear in the report of the Manager of the State Insurance Fund, submitted herewith, the Fund is on a sound and substantial financial basis.

The net premium income for the year ended December 31st, 1915, was \$1,293,613.15, while the total losses paid during the year amounted to \$293,013.83. The amount of loss reserves on December 31st, 1915, was \$906,848, while an additional surplus

was set up, equalling \$145,729.33, to meet any extraordinary catastrophe or emergency. The fund earned a surplus of \$400,314.22 and paid dividends to its policy holders, amounting to \$347,541.45. The average dividend in the various groups for the first policy period ending December 31st, 1914, was 14.8%, whereas the average dividend for the next policy period was 15%, and for the third policy period ending December 31st, 1915, 16%. Thus, then, insurers in the State Fund have not only benefited by rates that are on the average 20% below the manual rates of the stock and mutual companies, but they have received in addition, substantial dividends, which, when credited upon the premiums for the next policy period, result in very materially reducing the cost of insurance.

BUREAU OF MEDIATION AND ARBITRATION

During the year this bureau was under the control of Third Deputy Commissioner William C. Rogers. At the time of writing, however, the bureau is under the supervision of Mr. Frank Bret Thorn of Buffalo.

Excellent work has been accomplished in the way of settling strikes, as well as by effecting agreements before strikes were called. The report of the bureau appended hereto gives the detail of strikes and labor difficulties in which the Department has been of service.

BUREAU OF STATISTICS AND INFORMATION

The former Workmen's Compensation Commission, realizing the great need of accurate statistical data relating to industrial accidents and their compensation was preparing to undertake statistical studies on a large scale. This would have meant a statistical bureau to do work similar to that being done by the statistical bureau of the Labor Department, and would have resulted in a very substantial increase in the cost of the operation of the Commission. Through the consolidation of the two departments, the Bureau of Statistics of the Labor Department was enabled to take over the statistical analysis of industrial accidents and compensation cost.

Aside from the great practical value of such information to all concerned in this state, New York, because of its leading position among industrial states, has the opportunity to provide some of the most important accident statistics in the country. Of the work of the Bureau of Statistics and Information that in this field is clearly of the very first importance.

OFFICIAL BULLETIN

In order to disseminate information relative to the activities of the Department, as well as other information, and to publish notices required by law to be published, the Commission established the "Bulletin" which is issued monthly for free distribution. As editor of the Official Bulletin, the Commission appointed Willard A. Marakle of Rochester.

In addition to the matters required by law to be published, it has been the aim of the Department to publish from time to time, through this medium, articles with regard to the operation of the various bureaus and divisions of the Department. A very valuable feature of the Bulletin is the publication of the written opinions of the Commission in compensation cases. These opinions are not only in great demand by insurance companies and large employers of this state, but there is an increasing demand from all states in the Union for them.

The Commission has endeavored to have the Bulletin entered as second-class mail matter by the U. S. postal authorities. Unfortunately it has been unable to accomplish such a result. The Federal laws permit the entry of Bulletins of State Health Departments, Departments of Education and Agricultural Departments as second-class mail matter. There is no provision, however, permitting the entry of such publications by Departments of Labor or Industry. The Commission is now endeavoring, in co-operation with the labor departments of other states, to have such a law enacted by Congress. The extension of second-class mail privileges to the "Bulletin" would result in a very substantial saving to the state in the cost of postage.

BUREAU OF EMPLOYMENT

The Employment Bureau is a new activity in the State of New York. There has been much controversy as to whether the problem of unemployment is a state or a municipal problem. It seems to be generally recognized at the present time that unemployment is as much a state problem as is education. The first State Employment Office was opened in Brooklyn in 1914. Other offices have been established in Albany, Syracuse, Rochester and Buffalo. These offices are doing splendid work.

The report of the Director of the Bureau of Public Employment which is submitted herewith is worthy of the careful study of any one interested in the subject.

The principal thought in the management of the bureau has been not only to bring the jobless and the job together, but to bring to the job the person who is looking for that particular kind of a job and is qualified to fill it. It has been necessary to convince employers of labor that the bureau can supply them with the kind of employees they want and who can give satisfaction. By learning in detail just the kind of an employee an employer wants, it has been possible to furnish from lists of those registered for employment, an employee who can satisfactorily fill the place. In this way the employee is satisfied, the employer is well pleased and the bureau has rendered a real service to both.

There is an increasing demand for the establishment of additional employment offices, both in the large cities and in farming communities, for the handling of skilled employees and farm labor. The Commission has been unable to meet these demands because of the lack of sufficient appropriations. As time goes on, however, the demand will become increasingly great and will be so insistent that the state should recognize the necessity of providing suitable appropriations for the establishment of additional offices.

BUREAU OF INDUSTRIES AND IMMIGRATION

While it is true that immigration has fallen off to a point where it has become almost negligible at the Port of New York, due to the European war, yet the Bureau of Industries and Immigration has completed a very successful and busy year. The somewhat prevalent notion that this bureau has to deal only with incoming aliens has been disproved by the activities of the bureau.

The bureau is responsible for the oversight of living as well as working conditions of aliens resident in this state. The inspections of temporary labor camps, including living accommodations at the canneries in summer months, investigations of complaints of extortion, frauds, wage difficulties and various other conditions have kept the bureau usefully occupied. Immigrant lodging houses also have been inspected and licensed.

The bureau has had under investigation for a long period of time conditions on the docks with regard to orders for railroad tickets, bought abroad and exchanged for railroad tickets on the docks. Certain practices there in force were brought to the attention of the Interstate Commerce Commission, and it is confidently expected that the vigorous action of the Bureau will result at least in vastly improving the conditions on the docks in respect to such transportation orders.

The report of the Chief Investigator of the bureau is submitted herewith and refers in detail to the activities of the bureau.

BUREAU OF FIRE HAZARDS, BOILERS AND EXPLOSIVES

The Legislature of 1915 abolished the office of State Fire Marshal, and by amendments to the Labor Law placed in the Department of Labor the functions of inspecting steam boilers in factories in the state, except in certain cities where other provision for such inspection is made by local laws or ordinances, and also the inspection and licensing of magazines for the storage of explosives.

This bureau was organized by the Industrial Commission by the appointment of George A. O'Rourke as Chief Engineer, Mr. O'Rourke having held a similar position in the Fire Marshal's office. Some ten boiler inspectors were also appointed, several of whom had served under the Fire Marshal. Funds have been insufficient to man the bureau sufficiently to cover the entire state. Good progress, however, has marked the work of the bureau. This bureau is practically self-sustaining; the fees received for boiler inspections and certificates of compliance issued for explosive magazines and turned into the State Treasury are equal to the cost of maintenance of the bureau. The bureau, between the time of its organization in June, 1915, and September 30th, turned into the state the sum of \$6,840, of which

\$5,185 was received for certificates of compliance issued for explosive magazines, and \$1,655 for certificates of boiler inspection.

BUREAU OF INDUSTRIAL CODE

The act creating this Commission and abolishing the old Industrial Board, placed upon this Commission the obligation to continue the work of extending the Industrial Code, and revising it to meet changing conditions. Power was also conferred upon the Commission to vary the terms of the law or of the Industrial Code to meet a particular situation if a strict application of the law or code should work unnecessary hardship or there should be practical difficulties in the way. Such variation, however, should only be made if the spirit of the law or code were observed and public safety secured.

In order to carry out the vastly important work of code making and of properly considering applications for variations, the Commission organized a Bureau of Industrial Code with two deputy commissioners in charge. These deputies have made a large number of inspections of factories with a view to making recommendations as to variations, held hearings on the more routine cases, and reported their findings or conclusions to the Commission.

The Industrial Code deputies were provisionally appointed on July 16th, 1915. An open competitive examination for the position has been held by the Civil Service Commission. In view of the fact that up to the close of the fiscal year the eligible list had not been established and since it could not be ascertained whether the provisional deputies would pass sufficiently high to permit their permanent appointment, the work of formulating additions or amendments to the industrial code could not well be undertaken. The process of making such rules and regulations is slow and the work must be done with care and discrimination. Since the close of the fiscal year, however, the eligible list for deputy commissioner has been established and the provisional appointments of Deputy Commissioners Cullen and Eipper have been made permanent. With the permanent organization of the bureau it is expected that the great constructive work of the Commission along the lines of a wise and equitable industrial code will be taken up vigorously.

RECOMMENDATIONS FOR LEGISLATION

The Workmen's Compensation Law was hastily constructed and was the result of compromises in some directions. It also imposed new and untried conditions upon the industrial life of this state. Under the circumstances, it was but natural that in the practical operation of the law numerous flaws and omissions should be found. Among other things, it was found that many hazardous employments were not covered by law, although they should have been. Then, too, ambiguities and uncertainties as to the meaning of certain sections of the law have arisen, while the courts have by their decisions interpreted the law differently than the Commission, and rendered desirable certain changes in the law.

The Commission has, therefore, suggested a large number of amendments, both to the Workmen's Compensation Law and to the Labor Law, and has submitted these suggestions to the Special Joint Committee of the Legislature appointed to investigate the need of amendments to these laws. It is not the purpose of the Commission to discuss these various amendments in this place. The proposed amendments and the reasons therefor are submitted herewith and made a part hereof.

FINANCIAL

Appended hereto are tables showing (a) the appropriations, payments made and expenses incurred for the Department of Labor and the Workmen's Compensation Commission to carry on the work of those departments for the fiscal year ending September 30, 1915, as well as the re-appropriations of unexpended balances appropriated to the Industrial Commission for the maintenance of the consolidated department; (b) a detailed statement of the expenditures of the Department of Labor from October 1, 1914, to May 31, 1915, prior to consolidation; of the expenditures of the Workmen's Compensation Commission from January 1, 1915, to May 31, 1915, when it was merged with the Department of Labor, and of the expenditures of the Industrial Commission from June 1, 1915, to September 30, 1915; and (c) a statement showing the cost of administering the Workmen's Compensation Law from October 1, 1914, to September 30, 1915,

including the entire cost of the former Workmen's Compensation Commission and that part of the cost of the Industrial Commission that is properly chargeable to the enforcement of the Compensation Law, making an equitable apportionment of the general administrative salaries and rents that are charged to the compensation cost. It has been deemed necessary that a separation be made of such charges in view of the provision in the Compensation Law that after January 1, 1918, the cost of administering the Compensation Law shall be assessed back upon the various insurance carriers.

The total cost of operating the two departments separately to May 31, 1915, and jointly from June 1, 1915, to the end of the fiscal year was \$1,425,000. The Commission has endeavored to so reorganize the work that it will be able to operate the consolidated department for the coming year for about \$1,225,000. From the information already at hand it is apparent that it will be well within those figures.

The Commission, therefore, notwithstanding certain increased functions, will operate the Department efficiently at a saving of at least \$200,000.

Respectfully submitted,

(Signed) JOHN MITCHELL,
Chairman.

(Signed) EDWARD P. LYON,
Commissioner.

(Signed) LOUIS WIARD,
Commissioner.

(Signed) JAMES M. LYNCH,
Commissioner.

(Signed) W. H. H. ROGERS,
Commissioner.

By the Commission,

(Signed) HENRY D. SAVER,
Secretary.

REPORT OF THE INDUSTRIAL COMMISSION, 1915 33

STATEMENT OF APPROPRIATIONS, PAYMENTS MADE THEREFROM, AND EXPENSES INCURRED.

Appropriations:	Department of Labor	Workmen's Compensation Commission	Industrial Commission
Balance, October 1, 1914.....	\$210,915 40	\$297,329 34*	
Appropriation (L. 1914, Ch. 529).....	726,920 00	.....
Appropriation (L. 1915, Ch. 104).....	.....	425,000 00	
Total.....	\$937,835 40	\$722,329 34	
Payments made:			
October, 1914.....	\$60,220 11	\$65,146 59	
November, 1914.....	54,489 62	71,938 86	
December, 1914.....	63,258 33	52,188 88	
January, 1915.....	60,852 17	79,031 99	
February, 1915.....	64,262 71	40,690 90	
March, 1915.....	57,506 08	42,250 01	
April, 1915.....	57,823 81	60,873 15	
May, 1915.....	48,260 46	65,103 60	
Total.....	\$466,673 29	\$477,223 98	
Balances, May 31, 1915.....	\$471,162 11	\$245,105 36	
			†\$716,267 47
Payments made:			
June, 1915.....			\$121,000 35
July, 1915.....			128,958 68
August, 1915.....			119,306 66
September, 1915.....			117,660 67
Total.....			\$486,926 36
Balance, September 30, 1915.....			†\$229,341 11
Expenses incurred:			
October, 1914.....	\$63,052 78	\$70,272 81	
November, 1914.....	59,899 50	63,414 27	
December, 1914.....	53,583 46	51,435 20	
January, 1915.....	63,337 95	69,538 80	
February, 1915.....	57,234 73	61,837 67	
March, 1915.....	57,438 31	46,707 52	
April, 1915.....	59,741 39	54,728 73	
May, 1915.....	62,633 53	51,854 84	
Total.....	\$476,921 65	\$478,732 27	
June, 1915.....			\$111,181 70
July, 1915.....			109,638 38
August, 1915.....			104,547 09
September, 1915.....			105,365 19
Total.....			††\$450,981 49

*Including \$61,258.58 for the State Insurance Fund.

†Appropriated by L. 1915, Ch. 726.

‡Includes \$228,629.10 from general and \$712.01 from special appropriations.

§Includes \$8,942.43 unaudited at end of May in addition to total of audited accounts as given by months.

††Includes \$20,249.13 unaudited at end of September in addition to total of audited accounts as given by months.

CLASSIFIED EXPENSES BY

BUREAU OR DIVISION	Salaries	Traveling	Telephone and tele- graph	Station- ery and printing	Furniture and fixtures	Stamps
Department of Labor:						
Administration.....	\$30,462 96	\$3,378 28	\$62 52	\$1,156 04	\$350 35	.....
Legal Division.....	8,824 68	966 95	.....	48 95	106 81	.....
Bureau of Inspection.	5,133 28	18 75	577 54	.....	.....	.....
Division of Factory Inspection.....	142,045 58	29,427 54	.....	4,229 32	875 94	.....
Division of Home- work Inspection...	15,600 00	2,957 42	.....	408 44	87 45	.....
Division of Mercan- tile Inspection....	23,146 56	4,723 43	.....	1,255 56	4 50	.....
Division of Industrial Hygiene.....	44,069 52	4,437 82	.....	109 41	91 44	.....
Bureau of Industries and Immigration..	23,277 66	2,348 73	197 07	360 72	16 50	.....
Bureau of Mediation and Arbitration...	11,145 11	1,225 22	.....	233 04	151 52	.....
Bureau of Statistics and Information..	36,063 12	1,877 11	.....	3,711 86	506 45	\$15 00
Bureau of Fire Has- ards, Boilers and Explosives.....	.....	.....	.....	.....	90 50	.....
Bureau of Employ- ment.....	15,056 86	982 42	272 61	405 77	4,503 36	34 46
Bureau of Printing and Publication...	3,725 28	20 35	.....	45 81	65 02	.....
Industrial Board....	16,306 70	3,127 22	.....	1,556 90	164 61	.....
General.....	.....	10	1,428 50	3,895 71	225 35	3,769 61
Total.....	\$374,857 31	\$55,491 34	\$2,538 24	\$17,417 53	\$7,239 80	\$3,819 07
Workmen's Compensa- tion Commission:						
Administration.....	\$51,479 11	\$2,493 83	\$860 96	\$807 41	\$1,138 44	\$884 74
Legal Division.....	11,162 58	1,188 47	320 91	365 41	471 56	110 83
Bureau of Secretary..	22,397 71	663 77	536 98	241 98	1,209 99	306 30
Division of Cashier..	13,998 04	123 13	152 10	1,313 45	905 04	1,219 12
Division of Accounts	9,091 93	31 55	179 20	1,278 35	13 75	.....
General Manager....	8,266 66	62 65	247 53	193 30	251 45	.....
Division of Claims..	82,939 00	1,475 34	397 91	23,721 79	2,971 65	8,413 04
Subdivision of Med- ical.....	7,875 08	353 93	91 31	91 47	394 30	84 55
Division of State In- surance Fund.....	58,616 38	1,650 65	768 22	11,794 65	892 11	3,164 20
Subdivision of Actu- tuary.....	14,718 33	8 70	143 09	204 04	94 25	.....
General.....	.....	.....	.....	6,542 76	458 13	.....
Bureau of Compensa- tion—Branch Of- fices:						
20 Broadway...	4,495 69	258 51	157 90	38 23	.....	.....
171 Madison Av.	5,771 50	151 55	159 43	44 73	33 00	.....
Bronx.....	5,091 66	72 79	148 00	47 55	45 25	.....
Brooklyn.....	5,812 23	42 02	170 80	38 03	8 00	.....
Poughkeepsie...	4,565 85	854 83	72 95	47 26	64 00	11 00
Albany.....	19,847 00	1,383 25	1,327 16	1,142 43	3,469 24	.....
Syracuse.....	4,661 81	654 72	150 39	45 32	97 50	.....
Rochester.....	6,163 59	489 69	151 38	64 90	61 13	9 00
Buffalo.....	4,349 22	338 66	172 22	56 08	34 00	23 50
Total.....	\$341,303 37	\$12,298 04	\$6,208 44	\$48,079 14	\$12,612 79	\$14,226 28

BUREAUS AND DIVISIONS

Rent	Bond- ing	Legisla- tive re- porting	Dun's sub- scription	Rent of vault	Inspec- tion service	Sta te Treas- urer's bond	Miscel- laneous	Total
.....	\$16 00	\$35,426 15
\$8,558 36	9,947 39
.....	14,287 93
.....	63 72	176,642 10
.....	19,053 31
.....	29,130 05
.....	66 54	48,774 73
1,977 50	95 57	28,278 75
400 00	13,154 89
.....	9 15	42,182 69
.....	90 50
3,363 15	284 07	24,902 70
.....	3,856 46
.....	202 15	21,357 58
.....	522 15	9,841 42
\$14,299 01	\$1,259 35	\$476,921 65
\$3,004 61	\$106 68	\$450 00	.....	.....	.....	.....	\$85 61	\$61,311 39
554 84	76 01	14,250 61
2,937 23	219 83	28,513 79
1,352 15	32 59	19,095 62
854 82	25	11,449 85
458 59	9,480 18
5,977 15	229 54	126,125 42
1,107 41	113 31	10,111 86
3,781 83	\$11,595 96	.....	390 28	92,654 28
945 45	16,113 86
.....	1,328 53	8,329 42
700 00	27 77	5,678 10
595 00	62 44	6,817 65
600 00	24 90	6,030 15
900 00	21 50	6,992 58
525 00	51 08	6,191 97
2,000 00	409 27	29,578 35
686 64	68 12	6,364 50
640 00	73 45	7,653 14
700 00	66 37	5,740 05
\$28,320 72	\$106 68	\$450 00	.....	.....	\$11,595 96	.....	\$3,280 85	\$478,732 27

CLASSIFIED EXPENSES BY BUREAUS

BUREAU OR DIVISION	Salaries	Traveling	Telephone and telegraph	Stationery and printing	Furniture and fixtures	Stamps
Industrial Commission:						
Administration.....	\$31,658 32	\$6,516 04	\$229 60	\$1,022 00	\$386 03	\$242 57
Legal Division.....	10,520 04	1,140 78	92 70	250 22	68 00	74 31
Bureau of Secretary..	11,661 65	67 65	216 35	243 07	138 60	180 49
Division of Cashier..	7,400 36	.....	48 32	254 65	41 00	494 21
Division of Accounts.	5,174 64	39 15	41 79	4 15	.....	.....
Bureau of Compensation.....	2,312 50	.....	.....	97 50	.....	10 22
Division of Claims..	33,051 19	313 61	153 93	3,933 33	375 98	2,746 87
Subdivision of Medical.....	4,414 17	134 33	89 70	27 65	57 75	19 34
Division of State Insurance Fund.....	32,760 88	1,277 89	227 01	1,750 56	282 59	1,220 33
Subdivision of Actuary.....	6,057 50	11 25	29 63	13 00	28 00	.....
Bureau of Compensation—Branch Offices:						
29 Broadway...	400 00	.....	15 60	.....	.....	.....
171 Madison Av.	8,352 70	90 82	138 05	.....	6 50	.....
Bronx.....	387 50	4 45	15 85	.....	.....	.....
Brooklyn.....	2,962 49	43 30	89 90	.....	6 50	10 00
Poughkeepsie...	487 50	39 97	16 66	.....	.....	.....
Albany.....	10,454 52	281 14	513 08	48 35	125 00	750 00
Syracuse.....	2,598 82	286 48	42 50	70	6 50	17 00
Rochester.....	3,564 51	417 79	116 43	6 40	11 50	60 00
Buffalo.....	1,523 53	90 36	81 51	.....	10 00	6 00
Bureau of Inspection	1,549 98	330 06	126 26	.....	.....	.....
Division of Factory Inspection.....	70,987 85	12,309 25	.....	3,005 50	954 93	151 67
Division of Homework Inspection...	7,450 00	1,448 78	.....	268 86	.....	.....
Division of Mercantile Inspection....	10,739 98	2,270 01	.....	1,544 16	171 90	.....
Division of Industrial Hygiene.....	21,859 66	4,261 67	.....	134 08	10 00	.....
Bureau of Industries and Immigration..	11,612 94	2,403 07	120 25	382 43	30 40	12 00
Bureau of Mediation and Arbitration...	4,150 38	925 58	.....	153 50	5 00	.....
Bureau of Statistics and Information..	19,421 54	952 83	.....	2,774 42	660 00	2 18
Bureau of Fire Hazards, Boilers and Explosives.....	3,448 83	1,978 29	.....	239 21	132 84	.....
Bureau of Employment.....	12,821 25	157 28	415 66	847 08	411 88	53 66
Bureau of Printing and Publications..	2,020 00	29 85	.....	26 90	45 29	19
Bureau of Industrial Code.....	1,952 44	150 16	.....	59 00	.....	.....
General.....	.....	8 60	1,113 14	6,167 80	575 03	1,987 37
Total.....	\$338,757 67	\$37,975 44	\$3,883 90	\$23,254 52	\$4,541 22	\$7,988 41

* Includes \$250 in a petty fund not assigned by bureaus or divisions.

AND DIVISIONS—(Continued)

Rent	Bond- ing	Legisla- tive re- porting	Dun's sub- scription	Rent of vault	Inspec- tion service	State Treas- urer's bond	Miscel- laneous	Total
\$2,466 69	\$600 00	.....	.....	.....	.....	.....	\$216 60	\$43,337 85
455 50	68 75	12,670 80
2,411 38	\$220 00	.....	.....	.....	122 49	15,211 68
1,110 08	\$415 00	.....	.....	31 28	9,794 90
701 78	2 65	5,964 16
376 49	2,796 71
4,651 43	33 75	45,260 09
.....	17 16	4,710 10
1,727 49	\$5,284 81	\$500 00	184 36	45,215 92
431 87	8 50	6,574 75
300 00	10 67	726 27
340 00	23 70	3,951 77
75 00	1 19	488 99
400 00	13 00	3,525 19
75 00	67 34	686 47
1,450 00	389 59	14,011 68
343 32	30 45	3,325 77
400 00	16 66	4,593 29
512 00	68 17	2,291 57
3,114 97	5,121 27
.....	28 83	87,438 08
.....	9,167 64
.....	14,726 05
.....	57 71	26,323 12
1,182 50	51 75	15,795 32
150 00	8 50	5,887 96
.....	12 32	23,823 29
.....	5,799 17
1,670 00	405 53	16,782 34
.....	17 11	2,139 34
.....	3 00	2,164 60
.....	1,383 96	11,180 90
\$24,345 50	\$600 00	.....	\$220 00	\$415 00	\$5,284 81	\$500 00	\$3,215 02	\$450,981 49

EXPENSES OF ADMINISTERING THE COMPENSATION LAW FOR YEAR ENDED
SEPTEMBER 30, 1915

Expenses of Workmen's Compensation Commission to May 31, 1915..... \$478,732 27

Expenses of Industrial Commission from June 1 to September 30, 1915, charge-
able to Compensation Law:

Administration*.....	\$21,668 93	
Legal Division*.....	6,335 14	
Bureau of Secretary*.....	7,605 84	
Division of Cashier*.....	4,897 45	
Division of Accounts*.....	2,982 08	
Bureau of Compensation.....	2,796 71	
Division of Claims.....	45,260 09	
Subdivision of Medical.....	4,710 10	
Division of State Insurance Fund.....	45,215 92	
Subdivision of Actuary.....	6,574 75	
Bureau of Compensation — Branch Offices:		
29 Broadway.....	726 27	
171 Madison Avenue.....	3,951 77	
Bronx.....	483 99	
Brooklyn.....	3,525 19	
Poughkeepsie.....	686 47	
Albany.....	14,011 68	
Syracuse.....	3,325 77	
Rochester.....	4,593 29	
Buffalo.....	2,291 57	
		181,643 01
		<u>\$660,375 28</u>

RECOMMENDATIONS AND SUGGESTIONS OF THE STATE INDUS-
TRIAL COMMISSION FOR AMENDMENTS TO THE WORKMEN'S
COMPENSATION ACT.

The Commission recommends the following amendments to the Workmen's Compensation Act:

ARTICLE 1 — SECTION 2

- Group 2. After the word "Construction" insert the word *repair*.
- Group 7. After the word "Construction" insert the words *or repair*.
- Group 8. After the word "Company" add *marine wrecking*.
- Group 11. After the word "Construction" insert *or repair*.
- Group 12. After the word "installation" insert *repair*.
- Group 13. After the word "paving" insert the words *road building, curb and sidewalk construction or repair*.
After the words "subway construction" insert the words *or repair*.
Add *street cleaning, garbage or stone removal; operation of water works*.
- Group 14. After "saw mills" insert *bark mills*.
After "lath mills" insert *lumber yards*.
Before the word "stave" insert *barrels, kegs, vats, tubs*.

* Fifty per cent of the total expenses of these divisions is charged to the Compensation Law.

- Group 17. After the words "wooden toys" insert the word *wooden*.
After the word "baskets" add *cork cutting*.
- Group 18. Add *oil wells*.
- Group 19. After the words "terra cotta" insert *asbestos*.
Add *stone crushing or grinding*.
- Group 21. Add *machine shops, including repairs*.
- Group 22. After the word "boilers" insert *freight and passenger elevators*.
After the word "groups" add *window cleaning, heating and lighting; operation of threshing machines, cider mills, ensilage cutters, hay presses and evaporators*.
- Group 23. Substitute the word *screws* for "screens."
After the word "buttons" add *jewelry; gold, silver and plated ware; articles of bone, ivory and shell*.
- Group 24. Add *blacksmiths; horse-shoers*.
- Group 25. Add *ice harvesting, ice storage and ice distribution*.
- Group 26. After the word "printing" insert *and other*.
- Group 27. Add *bottling*.
- Group 28. After "garbage" insert *or sewage*.
Add *junk dealers*.
- Group 29. After "storage" add *of all kinds and storage for hire;*
- Group 30. Amend to read as follows:
Meat markets, packing houses, abattoirs, manufacture or preparation of meats, or meat products or glue, gelatine, paste or wax; oil wells.
- Group 32. Before "manufacture of," etc., insert *furriers;*
- Group 33. After "sugar refineries" add *manufacture of dairy products*.
- Group 38. After "robes" add *or other articles from textiles or fabrics*.
- Group 40. After "printing" insert *engraving*.
After "embossing" insert *manufacture of moving picture machines and films;*
- Group 41. After "mules" add *public garages, livery, boarding or sales stables; movers of all kinds*.
- Group 42. After "steel building and bridge construction" insert *or repair*.
After the word "installation" insert *or repair*, making it read "*installation or repair of elevators.*"
After the word "painting" insert the word *papering*.
After the word "renovating" insert *picture hanging*.
After the word "building" strike out "*and.*"
After the word "bridges" insert *and other structures; salvage of buildings or contents*.
After the word "sanitary" insert the word *lighting*.
After the word "heating" strike out "*engineering.*"
After the word "installation" insert *or repair*.
- Add Group 43. *Any service to the state or a municipal corporation or other subdivision thereof, notwithstanding the definition of the term "employment" in subdivision five of section three.*

ARTICLE 1 — SECTION 3

Strike out the words "who is engaged in a hazardous employment" and the words "the same" and insert in place of the latter the words *a hazardous employment*; so that the definition shall read as follows:

Subdivision 4. "Employee" means a person in the service of an employer carrying on or conducting a hazardous employment upon the premises or at the plant or in the course of his employment away from the plant of his employer; and shall not include farm labor or domestic servants.

NOTE.—The proposed amendment would cover employees called in to do construction or repair work as in the Bargey case, and also clerical office employees and others who are not definitely and clearly included within the scope of the act at the present time.

ARTICLE 1 — SECTION 3

Add to Subdivision 11 *and a step-child dependent upon the deceased.*

Add a new subdivision:

13. "*Manufacture,*" "*construction,*" "*operation*" and "*installation*" include repair, demolition and alteration.

ARTICLE 2 — SECTION 11

Amend section 11 so as to provide that where an employer has complied with the Compensation Law by securing the payment of compensation to his employees he shall not be liable to an action for damages by a representative or next of kin of a deceased employee for any cause.

NOTE.—The Appellate Division, in the case of *Shinnick vs. Clover Farms*, has held that damages at common law may still be recovered for disfigurement in the case where plaintiff's ear was amputated without regard to the impairment of earning power; and the Supreme Court, Special Term, Erie county, in the case of *Shannahan against Monarch Engineering Co.*, has held that damages may be recovered at common law by the next of kin of the deceased where the injury results in death and where there were no dependents within the meaning of the Compensation Act.

We recommend that paragraph 11 of Article 2 be so redrafted as to cover these points and relieve an employer who is insured under the Compensation Law from any liability other than the payment of compensation.

We also recommend that this section be amended to prohibit an action to recover damages by a parent for the loss of services of a minor who has received compensation, and by a husband for loss of wife's services in a similar case.

ARTICLE 2 — SECTION 12

The Commission recommends the amendment of section 12 in such wise that where the injury incapacitates the workman for a period more than four weeks, compensation shall relate back to the date of injury.

ARTICLE 2 — SECTION 13

13. Treatment and care of injured employees.

NOTE.—This section is so ambiguous that controversies are constantly arising as to whether an injured employee is permitted to select his own physician at the expense of the employer or whether he must accept the physician designated by the employers on pain of paying the bill himself. The law in this

respect should be made definite and clear. The law should also be made clear as to whether the word "apparatus" includes replacement of amputations with artificial members.

ARTICLE 2 — SECTION 15

We recommend that section 15 be so amended as to authorize an award for the loss of thumb, finger, toe or phalange, where there is actual loss of use; and also that subdivision 5 of section 15 be so amended that compensation payable under subdivision 4, together with the decreased wages, shall not exceed the wages which the injured workman was receiving prior to the injury.

We also recommend that section 15 be further amended by adding subdivision 7, as appears in the recent Argetsinger bill of 1915 (print No. 1986), as follows:

7. Permanent total disability after permanent partial disability. If an employee who has previously incurred permanent partial disability through the loss of one hand, one arm, one foot, one leg or one eye, incurs permanent total disability through the loss of the other member or organ, he shall be paid, in addition to the compensation for permanent partial disability provided in this section and after the cessation of the payments for the prescribed period of weeks, special additional compensation for the remainder of his life to the amount of sixty-six and two-thirds per centum of the average weekly wage earned by him at the time the total permanent disability was incurred. Such additional compensation shall be paid out of a special fund created for such purpose in the following manner: The insurance carrier shall pay to the state treasurer for every case of injury causing death in which there are no surviving dependents the sum of one hundred dollars. The state treasurer shall be the custodian of this special fund.

The Commission recommends a further amendment to section 15 in substantially the following words: In case of an injury resulting in disfigurement the Commission may, in its discretion, make such award or compensation as it may deem proper and equitable, in view of the nature of the disfigurement, but not to exceed \$3,500.

ARTICLE 2 — SECTION 16

Add to subdivision 2: The Commission may, in its discretion, require the appointment of a guardian for the purpose of receiving the compensation of a minor child.

We recommend that subdivision 4 of section 16 be amended so that the liability for the payment of compensation to dependent parents, grandparents, grandchildren or brothers, and sisters under the age of 18 years, where there is no surviving wife or child, will clearly appear.

ARTICLE 2 — SECTION 23

We recommend that section 23 be amended in the following respects:

- 1st. By reducing the time within which to appeal to 20 days.
- 2nd. To permit the certification of questions of law where the claim for compensation is made against the State Fund.

3rd. To authorize appeals direct from the order of the Appellate Division to the Court of Appeals as a matter of right where the decision of the Appellate Division is not unanimous and only upon consent of the Appellate Division or a judge of the Court of Appeals where the decision of the Appellate Division is unanimous.

Also allowing the Commission to appeal to the Court of Appeals without the necessity of filing a bond.

To make it unnecessary to file exceptions to the rulings of the Commission.

ARTICLE 2 — SECTION 26

We recommend that this section be so reframed that the awards of the Commission may be docketed in the county clerk's office in a manner similar to judgments and thereupon become liens upon real estate, to be followed by execution to the sheriff, as in case of judgments of the court.

NOTE.— Heretofore it has been necessary before an award could be collected, enforced or become a lien on property, to go through the entire proceedings of a law suit and procure a docketed judgment. Up to the present time the Commission has been compelled to commence more than 800 suits of this character, principally against employers who have refrained from insuring.

Under this section the power of this Commission to institute an action against an uninsured employer is surrounded with considerable doubt. If the last preceding suggestion relative to making the awards of the Commission equivalent to judgment is not adopted, section 26 should be so amended as to relieve this doubt.

ARTICLE 2 — SECTION 27

This section should be so amended as to make it clear that the funds paid in shall constitute an aggregate trust and shall be kept separate and apart from the other moneys of the State Fund.

ARTICLE 2 — SECTION 34

Section 34 should be so amended that the "award" of compensation should have preference and lien as well as the "right" of compensation, as provided in the section at the present time.

ARTICLE 3 — SECTION 50

Strike out the following from the end of subdivision 2 of section 50, "a copy of the contract or policy of insurance," and insert in lieu thereof, *such information regarding the policies as the Commission may require.*

The Commission recommends that the following be added to subdivision 3 of section 50: The Commission shall have the authority to revoke its consent furnished under this section at any time, in its discretion.

ARTICLE 3 — SECTION 52

The Commission recommends that section 52 be amended to read as follows: Failure to secure the payment of compensation shall constitute a misdemeanor and shall have the effect of enabling the injured employee, or, in case of death, his dependents, legal representatives, to maintain an action for damages in the courts, as prescribed by section 11 of this chapter.

ARTICLE 3 — SECTION 54

The Commission recommends an amendment to subdivision 4 of section 54, by adding the following: But this limitation shall not apply to policies covering employers insured in the State Fund.

NOTE.— This recommendation is made in order to permit insurers in the State Insurance Fund to secure other insurance for general liability in case the Commission's recommendation giving the State Fund the right to make such coverage is not possible.

Subdivision 5 of this section, relating to the cancellation of insurance contracts, should be amended as provided in the Argetsinger bill (print No. 1986), so that it will clearly appear that the contract may be cancelled after ten days' notice to the Commission. The wording of the present subdivision is ambiguous.

The words "stock company or mutual association" should be stricken out, and the words *and insurance carrier* should be substituted in lieu thereof, giving the State Fund, as well as stock companies and mutual associations, right of cancellation.

NOTE.— The act in its present form makes no provision for cancellation of a policy by the State Fund. The consequence is that a vast number of policyholders are in default in the payment of their second and third installments of premiums. The only remedy thus far available is by suits to collect the premium, and these have been far from encouraging in their result.

ARTICLE 5 — SECTION 90

The Commission recommend an amendment to section 90 allowing the State Fund to insure its policyholders not only against the payment of compensation, but also for all liability at common law to its employees or the general public. The following is suggested as an amendment to the section: After the words, "the compensation provided by this chapter" insert *State Insurance Fund shall also have authority to insure any of its policyholders against loss or damage resulting from accident to or injury suffered by an employee or other person and for which the person insured is liable.*

NOTE.— One of the objections made by the stock and mutual companies against insuring in the State Fund, in soliciting business, is that they can give perfect coverage for all liability, whereas the State Fund can only cover for compensation. The purpose of this amendment is to enable the State Fund to provide complete coverage for all liability.

ARTICLE 5 — SECTION 97

The Commission recommend an amendment to section 97 providing for the payment of an earned dividend at the dividend period to an employer who has withdrawn from the State Fund.

NOTE.— The present act provides that dividends declared shall be credited on the next premium and does not specifically give the right to have the premium returned by way of dividend in case of withdrawal from the Fund. The following is suggested as an amendment: Insert at the end of paragraph 3, section 97, the words *in the event of the withdrawal of any member of the group who would be entitled to such dividend if he had remained in the Fund the Commission is empowered to pay the amount of the dividend to such employer.*

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The Commission recommend amending section 97 by striking out the words in paragraph 4 "period of 6 months" and substituting in lieu thereof *period of 12 months*.

NOTE.—The object of this amendment is to relieve the State Fund from the present burdensome and expensive semi-annual accounting and substituting therefor, the usual annual basis for such sum.

The Commission also recommend a further amendment to section 97 so as to provide that the payment of additional premiums be made to the State Insurance Fund instead of to the State Treasurer.

ARTICLE 5 — SECTION 100

Section 100 should be so amended that it will clearly appear that the employer in the State Fund is required to give 30 days' notice of his intention to withdraw.

An amendment is suggested authorizing the Commission to adopt an equitable method for apportioning dividends among employers constituting any group in the State Insurance Fund.

The Commission also recommend an amendment to the law providing for the addition of a small percentage as "loading" for expenses in case of payment into the State Fund of the present value of death and liability cases.

NOTE.—The reason for this recommendation is that these commuted amounts when called into the State Fund, will, as the years go on, reach very large proportions. Many of them will run over periods of many years, calling for a large amount of clerical force in the way of bookkeeping and actuarial assistants in the way of readjusting payments, which will be, as time goes on, a very considerable expense. It is felt that some provision should be made for this expense and that a small percentage of loading be added for that purpose, and it be definitely stated in the statute where the money for such loading shall be placed, where it can be used for expenses without direct appropriation from the Legislature, and may not be mingled with the Trust Fund, where it might be in danger of being tied up.

The Commission recommend that wherever in the Workmen's Compensation Act the words "State Workmen's Compensation Commission" occur they be changed to *State Industrial Commission*.

RECOMMENDATIONS AND SUGGESTIONS BY THE STATE INDUSTRIAL COMMISSION FOR AMENDMENTS TO THE LABOR LAW

ARTICLE 1 — SECTION 2

In Article I, under the definition of factory-work for a factory, change the words, "where one or more persons are employed at labor" to *where five or more persons are employed at labor*, and strike out the words "except dry dock plants engaged in making repairs to ships." Add at the end of the paragraph giving the definition of a factory the words, *the provisions of this chapter in respect to guarding of machinery and the hours of labor for women and minors and the one day of rest in seven law shall apply (to wit, section 8-a of this chapter), to all mills, workshops or other manufacturing (or business establishments and all buildings, shops, structures,) or other places used for or in connection therewith, where one or more persons are employed at*

labor. Dry dock plants engaged in making repairs to ships shall be held to be factories so far as the law pertaining to the guarding of machinery and the regulating of hours of labor for women and minors is concerned.

Add to the definition of "mercantile establishment" in section 2 the words *and shall include any building, shop or structure, or any part thereof, that is occupied in connection with such establishment.*

ARTICLE 2 — SECTION 8-A

The Commission recommends that the first sentence in subdivision 1 be amended to read as follows: Every employer of labor engaged in carrying on any factory or mercantile establishment shall allow every person except those specified in subdivision 2, and as otherwise herein provided, employed in or in connection with such factory or mercantile establishment, at least 24 consecutive hours rest in every calendar week.

ARTICLE 2 — SECTION 21

Amend section 21 to read as follows:

The Commissioner of Labor shall enforce all the provisions of this article. He shall investigate complaints made to him of violations of such provisions and if he finds that such complaints are well founded, he shall present to the district attorney of the proper county all the facts ascertained by him in regard to the alleged violations, and all other papers (remainder of section as heretofore).

NOTE.—The above amendment, which leaves out the following words:

"he shall issue an order directed to the person or corporation complained of, requiring such person or corporation to comply with such provision. If such order is disregarded, the commissioner of labor"

will greatly facilitate the enforcement of the provisions of this article in that it will do away with delays and make possible the prompt enforcement of the provisions of the law. It is highly desirable that this change be effected, as the Commission will be able to enforce more thoroughly and promptly the provisions of the article.

If, however, the above proposition is not adopted, it is essential that an amendment to section 8-a of Article 2, as follows, should be enacted:

ARTICLE 2 — SECTION 8-A

Transfer section 8-a to Article 6, redrafting it so that no reference to mercantile establishments be made in it. Then add a similar section to Article 12, without reference to factories, but applying purely to mercantile establishments.

NOTE.—Section 8-a.—The One Day of Rest in Seven Law affects employees in both factories and mercantile establishments.

It is desirable that the provisions be made mandatory, and the placing of the said section in Article 6 and Article 12, as outlined, gives that effect, and at the same time removes the objection that its appearance in either one of the articles is a misplacing because of its affecting both kinds of establishments. Article 6, it is to be noted, is the "factory" section and Article 12 the "mercantile" section.

The enactment of the proposed change in section 21, however, will effect the desired improvement in a much simpler manner.

ARTICLE 2 — SECTION 24

Amend this section to read:

“ A corporation, *joint stock association*, or person engaged in the business of operating a mercantile establishment, *by leave or otherwise*, shall not by deduction,” etc. (Balance of section changed to correspond.)

NOTE.— It is desirable to give the benefits of section 24 to employees of joint stock associations, or firms or persons, as well as corporations.

Further, the proposed insertion harmonizes with the language used in section 11 of Article 2.

ARTICLE 3

Section 52-a. Variations. (Chap. 719 of Laws of 1915.)

Section 52-a. Review by Commission. (Chap. 674, Laws of 1915.)

Section 52-b. Review by court. (Chap. 674, Laws of 1915.)

Section 52-c. Limited review of provisions of chapter and of rules, regulations and orders. (Chap. 674, Laws of 1915.)

Section 52-d. Variations. (Chap. 674, Laws of 1915.)

Repeal sections 52-a, 52-b, 52-c of chapter 674 of the Laws of 1915 (section 52-d, chapter 674, of the Laws of 1915 was superseded by section 52-a — Variations, being chapter 719 of the Laws of 1915), and amend section 52-a of the Labor Law, to read as follows:

52-a. Variations.— 1. If there shall be practical difficulties or unnecessary hardship in carrying out any provision of this chapter, or rule, or regulation, adopted by the State Industrial Commission thereunder, the Industrial Commission shall have power to make a variation from such requirements if the spirit of the provision or rule or regulation shall be observed and public safety secured. Any person affected by such provision, or rule, or regulation, or his agent, or attorney, may petition the said Industrial Commission for such variations, stating the grounds therefor. The Commission shall fix a day within a reasonable time for a hearing on such petition, if in its judgment it is deemed necessary, which shall be public, and give notice thereof to the petitioner, who may appear in person, or by agent, or attorney.

2. The petition shall be verified and filed with the Commission and shall state in full detail:

- a. The rule, regulation, or order upon which the hearing is desired.
- b. The issues to be considered by the Commission on the hearing.
- c. The interest of the petitioner in the property involved.
- d. The name and address of the owner of the property and such other information as the Commission may prescribe.
- e. The petitioner shall be deemed to have waived all objections to any irregularities or illegalities in the rule, regulation or order upon which a hearing is sought, other than those set forth in the petition.

3. The decision of the State Industrial Commission, whether granting or denying the application, shall be in the form of a resolution, and shall be final. At least three affirmative votes shall be necessary for the adoption of such resolution, and such resolution shall contain a description of the conditions

under which such variation shall be permitted. A similar variation shall be granted by the Commission upon such a petition to all buildings, installations or conditions where it is shown by the petitioner that the facts are substantially the same as those stated in the original variation.

4. A record of all such variations shall be kept in the office of the State Industrial Commission and shall be properly indexed under section numbers of the law or industrial code to which each variation applies and shall be open to public inspection during business hours.

5. The powers conferred upon the Commission shall be subject to the requirements of this chapter that all places to which it applies shall be so constructed, equipped, arranged, operated and conducted in all respects as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein.

NOTE.—The above proposed amendment covers the general provisions of the sections involved, except that it omits the provisions for review by court, as set forth in sections 52-b and 52-c.

The position of the Commission, with the changes above outlined, will be greatly strengthened, and the fertile field of delay now open to those wishing to avail themselves of it, through appeal to the courts in civil proceedings, will be closed. No right, which is inherently in the individual, will in any way, shape or manner be denied by the change proposed. Appeal for relief from any order deemed proper subject for variation or relief is left open in full to the individual, and the judgment of a Commission expert upon such matters is rightfully made final. The review by court is still open to any individual desiring it, as in the event of failure to comply with the decision of the Commission, and, therefore, with the orders involved, and a prosecution and conviction following, the right of appeal is always in the defendant.

ARTICLE 4 — SECTION 57

Provide that the Homework Division be in charge of the *Chief* of the Homework Division.

ARTICLE 6 — SECTIONS 79-a, 79-b, 79-c

Amend the opening words of each one of these three sections by the insertion of the words "*or permitted*" after the words "no factory shall be conducted." The reading will then be, in effect, at the opening of each of the three sections enumerated:

No factory shall be conducted or permitted, etc.

NOTE.—This amendment is desirable in order to place more clearly the absolute responsibility of the owner as to the provisions of these sections, it being shown by section 94 of the Labor Law that the intent of the Legislature was to make the owner responsible for such structural changes. It is further believed that this will materially strengthen the Commission in the enforcement of these sections looking to structural improvements tending to reduction of fire risks in factory buildings.

ARTICLE 6 — SECTION 79-c

Add to subdivision 1, after the word "roof," changing the period to a comma, these words:

whenever safe egress may be had from the roof to an adjoining or nearby structure.

NOTE.— This change is suggested in order to bring about conformity with a similar requirement in section 79-b, where it is provided that required exits shall be extended whenever safe egress may be had to an adjoining or nearby structure.

ARTICLE 6 — SECTION 79-e-10

Strike out the words "stair hall and," making the sentence read:

Every such notice shall be posted in a conspicuous place in every workroom.

ARTICLE 6 — SECTION 83-b

Amend this section to read:

"In every factory building *six or seven stories in height, in which combustible materials are manufactured, and in every factory building over seven stories in height, or over 90 feet in height, in which wooden flooring or wooden trim,*" etc. (Balance of section unchanged.)

NOTE.— The object of this change is to bring about harmony with the requirements of the law and the Industrial Code rules in respect to buildings in which combustible materials are manufactured and to leave no hiatus between the requirements of the law and the rule.

ARTICLE 6 — SECTION 90

Amend this section to read:

"The Commissioner of Labor, or other competent person designated by him, upon request, shall examine any factory outside of the City of New York." (Balance of section unchanged.)

ARTICLE 12 — SECTION 174

Add a new section to Article 12, relating to mercantile establishments, numbering it section 174, as follows:

"The owner of the building in which a mercantile establishment is conducted shall be responsible for the observance, and punishable for the non-observance, of the following provisions of this article, anything in any lease to the contrary notwithstanding, namely: The provisions of sections 168, 168-a, 168-b, 168-c, 168-e, 168-f; except that the lessee or tenants conducting the mercantile establishment shall also be responsible for the observance and punishable for the non-observance within their respective holdings, of the provisions of sections 168, 168-a, 168-b, 168-d and 168-e, and subdivision 7 of section 168-e. Except as in this article otherwise provided, the person or persons, company or corporation, conducting or operating a mercantile establishment, shall be responsible for the observance and punishable for the non-observance of the provisions of this article, anything in any lease or agreement to the contrary notwithstanding.

NOTE.— It is highly important that this section be enacted and added to Article 12. The form in which it is drafted follows the measure as introduced in the Recodification measure last year by the New York State Factory Investigating Commission.

As the law now stands, the responsibility for the sections enumerated, which relate to cleanliness, sanitation and structural changes, is lodged nowhere.

PENAL LAW

Amend section 1275 of the Penal Law by making the penalty an out and out misdemeanor, except that the minimum penalties now established for a first, second and third offense be retained. This also will necessitate the striking out of the maximum penalties recited for the three grades of offense.

NOTE.— The above change is highly desirable in order to give to the courts greater power in the matter of punishment in flagrant cases. Criticism of the law has frequently been made by the courts, to the effect that the maximum penalty permitted in such matters as fire hazards and locked doors is altogether inadequate and should be increased.

GENERAL

1. Add to the Labor Law a new section providing that any violation of a provision of the Labor Law, or failure to comply therewith, shall be punishable also by a civil penalty of not less than \$250 in each instance, to be sued for by the State Industrial Commission in its name of office.

NOTE.— The enactment of such a measure will enable the Commission to reach parties who are responsible but who, owing to residence in other states or countries, cannot be reached by criminal process.

2. Amend the charter of the city of Rochester in relation to the powers of the Police Court, so that it may have power to hear and determine actions against corporations without making it necessary to transfer the same to the grand jury.

3. Amend the General Business Law, section 392-a, in relation to marking mattresses.

NOTE.— The enforcement of this section of the General Business Law is placed upon the State Industrial Commission. The section requires redrafting, as at present successful prosecution under the same is impossible. A measure of this kind was introduced in the session last year, toward the close of the session.

4. Enact a new section, incorporating the same in Article 2 of the Labor Law, as follows:

It shall not be lawful for any owner of a factory building, or occupant thereof, against which orders of the Industrial Commission issued pursuant to provisions of the Labor Law, in relation to fire hazards or sanitation, shall have been uncomplied with for a period of sixty days following issuance, to further use or permit the use of such building for factory purposes.

NOTE.— The enactment of this section is highly desirable, in order to give the Industrial Commission power to protect the lives of factory workers by vacation of a building, if necessary, where such orders are steadfastly neglected by the responsible parties.

5. It is recommended that chapter 321 of the Laws of 1915, being an amendment to section 8-a of the Labor Law, be re-enacted, it having been held by the Attorney-General that this chapter was inadvertently repealed by the later chapter 648 of the Laws of 1915.

ARTICLE 12 — SECTION 161 — SUBDIVISION 2

Amend this section so as to read as follows:

No female employee over the age of sixteen years shall be permitted, required or suffered to work in or in connection with any mercantile establishment or restaurant more than six days or fifty-four hours in any one week, or more than nine hours in any one day, except that one day in each week may be longer than nine hours for the purpose of making one or more shorter work days in the week; or before seven o'clock in the morning, or after ten o'clock in the evening, of any day. This section does not apply to the employment in mercantile establishments of persons sixteen years of age. (Balance of section unchanged.)

ARTICLE 12 — SECTION 161 — SUBDIVISION 3

Change the word "twenty" to *thirty* in third sentence.

ARTICLE 12 — SECTION 161-a — HOURS OF LABOR OF MESSENGERS

Amend this section by omitting "in cities of the first and second class" and have section read:

No person under the age of twenty-one years shall be employed or permitted to work as a messenger. (Balance of section unchanged.)

ARTICLE 12 — SECTIONS 160, 167, 168, 168-a, 168-b, 168-c, 168-e, 169, 170, 171, 172, 173

The Commission suggests that attention be directed to the foregoing sections with reference to the general proposition of extending the application of these sections beyond cities of the first and second class.

The Commission respectfully directs attention to the fact that some of the sections above referred to contain the words "Commissioner of Labor," and believes that where they appear it would be well to have them changed to read "State Industrial Commission."

Section 48 of Article 3 of the Labor Law is hereby recommended to read as follows:

Section 48. Counsel.—The Commission may appoint and at pleasure remove as counsel to the Commission, an attorney and counsellor at law of the State of New York, who shall represent the Department of Labor or the Commission and take charge of and assist in the prosecution of actions and proceedings brought by or on behalf of the Commission or the Department, and who shall generally act as legal advisor to the Commission. Such counsel shall receive an annual salary of \$6,000. The Commission may appoint, and at pleasure remove, not exceeding three such attorneys and counsellors at law to assist the counsel in the performance of his duties *as may be necessary in its discretion* and may fix their compensation within the limits of the annual appropriations provided therefor.

NOTE.—The reason for this proposed amendment is that the Commission finds its legal staff utterly insufficient to cope with the enormous amount of litigation which is constantly coming upon the Commission, both in prosecuting the thousands of violations of the Labor Law throughout the sixty-two counties

of the State and in prosecuting employers under the Compensation Act for non-insurance, the collection of awards, the preparation of the records on appeal and the innumerable other legal matters which require the attention of counsel from day to day in the working of the Compensation Law. The Commission feels that the criticism made of its legal department growing out of the Diamond factory fire in Williamsburg is directly traceable to the fact that it had but a comparatively small portion of the legal force which it requires to attend to its legal affairs.

SUGGESTIONS FOR REVISION OF ARTICLE 9 OF THE LABOR LAW

BY GUSTAV WEBNER, TUNNEL INSPECTOR

- Sec. 119. Add after the word "tunnels," *and subways, and all work constructed under artificial air pressure.*
- Sec. 123. Substitute word *explosives* for the word "powder."
- Sec. 128. Add after the words "in all mines" the words *or tunnels.*
- Sec. 131. Add after the word "mine" in each sentence, *quarry, tunnel or underground construction work in this state.*
- Sec. 132. Eliminate the word "trapdoors" and substitute *openings shall be suitably protected.*
- Sec. 134-a. Substitute *twenty-two pounds* for "twenty-one pounds." Substitute for the words "thirty-six pounds," wherever they appear in the compression tables, the words *thirty-five pounds.*
- Sec. 134-b. Add to subdivision (h) *Such lock shall be at least five and one-half feet in height, and shall have telephone connection with the outside.*

Part II

REPORT OF BUREAU OF INSPECTION

[53]

(1) REPORT OF THE FIRST DEPUTY COMMISSIONER
(IN CHARGE OF BUREAU OF INSPECTION)

To the Industrial Commission:

To the report herewith submitted are appended the reports of the chiefs of the several divisions of the Bureau of Inspection, together with statistical tables showing in detail the work accomplished by each division.

It seems needless to review at length the reports of divisions, except to call attention to such features of their work as need to be emphasized, in order that the law may be strengthened and the highest standard reached in its enforcement.

On assuming the duties of First Deputy Industrial Commissioner, July 16, 1915, I found we had reached that season of the year when the Department's employees were allowed their vacation period, namely, July and August, and we had a little over two months in which to complete the work of the fiscal year. It was very evident that any changes to be made in the method of performing or reporting the work of the inspection force, would of necessity have to be made effective October 1, 1915, the beginning of the fiscal year. Such changes as were deemed necessary were accordingly made to apply at the beginning of the 1916 fiscal year.

FACTORY INSPECTION

I feel that it is necessary to call the attention of the Commission to the difficulties encountered by the Division of Factory Inspection, relative to structural changes in factory buildings, in order to provide proper exits and other requirements for the protection of the factory workers in case of fire, as set forth in sections 79-a, 79-b, 79-c, 79-d, 79-e, and 79-f of Article 6. The enforcement of the provisions of these sections have imposed increased duties on the inspection force. The property owners are reluctant to comply, and they have, since the application of these provisions of the law to factories of the state, made numerous appeals from the orders

issued, which resulted in delay until the appeal could be acted upon.

There have been many requests that inspectors visit the premises to which structural orders apply for the purpose of explaining what will be acceptable to the Department. It is also necessary to visit the premises a number of times in order to ascertain whether the work under construction is being carried out in conformity with the provisions of the law and the Industrial Code.

During the fiscal year 1914, it was deemed advisable to print on the notice on which orders are issued by the Department, the following:

IMPORTANT.—If you believe these orders are unreasonable or unnecessary, and you desire to have them changed, modified or waived, you are not required to employ or retain a lawyer, architect, engineer, building expert or fire prevention expert. Make written protest within five days to the Commissioner of Labor, when, if the facts justify, a re-inspection will be made and such action taken as the later inspection warrants.

After a trial of more than a year, it was clearly demonstrated that a statement of this character had a strong tendency to invite those who received notice of orders to appeal from the orders issued instead of complying with them, and actually resulted in a large number of appeals, each appeal necessitating a re-inspection of the premises. For this reason the statement was eliminated from the new form of notice of orders to be used beginning October 1, 1915, and in the short period from that date to the writing of this report, the beneficial results of the change are clearly visible.

In many instances a second appeal has been made after a decision has been rendered on the first appeal. This has necessitated repeated inspections on appeals and numerous visits to such premises to explain the necessary changes, in order to secure compliance with the law, and in most instances the owners, agents or lessees of the property were reluctant to proceed with the construction work necessary to comply with the orders of the Department until they were notified by counsel or summoned to court for their failure to make the changes necessary in their buildings.

The provisions of section 52-a, chapter 719, Laws of 1915, and sections 52-a, 52-b, 52-c, chapter 674, Laws of 1915, provide that

variations and modifications from the provisions of the law may be granted, and this right to request a variation and modification has resulted in many being made and a number of them were relative to orders which were the basis of appeals acted on by the former Appeal Bureau, all of which tend to delay enforcement. Under the present law we have had many instances where we have sent counsel a letter fixing final date of compliance, or we have begun prosecution, and the defendant has made request for variation or modification, and in this way has stayed the prosecution.

Any person should have the right to appeal to the Commission where practical difficulties or unnecessary hardships exist, but the law should be changed so as to prevent property owners, agents or lessees from delaying the enforcement of the law. There should be a time limit in which all requests for variations or modifications can be made, after the date on which orders are issued, and the decision of the Commission on such variation or modification should be final.

THE LAW AND ITS ENFORCEMENT

In addition to the regular inspection of factories, mercantile establishments and other places, the inspection force is compelled to make numerous compliance visits.

Besides the foregoing, there are various other duties to perform, part of which are the making of special inspections, investigation of complaints, night work relative to overtime work and the enforcement of the law relative to hours of labor as it applies to women and children, the enforcement of the day-of-rest law, securing evidence regarding violations of the law, procuring summonses against violators, and attendance in court in connection with the cases presented to the court for prosecution.

As the statute stands at present the inspection force is not adequate to properly enforce the labor laws, and in this connection permit me to call attention to the experience of the Department since its inception. At no time has the inspection force been adequate to properly enforce all the laws the Department is charged with enforcing. This is true at present and has been so in the past. The law-making bodies have from time to time added many beneficial statutes to what are known as the labor laws, but at no

time have they increased the agency for enforcement to a point that would be adequate to the duties imposed on the Department as the result of the enlarged responsibilities because of the statutes added from time to time.

The time has arrived for the Commission and the Legislature to give serious thought to the question of providing an adequate force to perform the duties imposed on the Industrial Commission. With the development of the present laws and the powers vested in the Commission to establish codes and make standards applicable to the industries of the state, there can be splendid progress made for the protection of the working people of the state, which will result in reducing the number of deaths and injuries of those engaged in the industries, and reduce to a minimum the hazards of the various industries in the State of New York.

PROPER LIGHTING OF INDUSTRIAL ESTABLISHMENTS

There is much to be accomplished by improving in a reasonable way the sanitation, ventilation and lighting of our factories and mercantile establishments, and thereby protecting the health and efficiency of the working people who are compelled to spend more than one-third of their lives in the stores and factories of the state.

The providing of proper illumination in industrial plants is very important from the standpoint of health, efficiency and safety. This is particularly true of the older type of factory construction. A considerable percentage of industrial injuries can be traced to insufficient and improper lighting facilities. Huge machines cast many shadows, and shafting and belting add to the gloom, and all tend to obstruct the natural light obtained in the building. As a result many hazardous conditions exist.

In the latest type of factory construction, vast improvements have been made by designing buildings with the maximum amount of light in the daytime. In many buildings artificial light is in constant use. Other plants operate at night. Many use artificial lighting during the dark hours of the day.

The installation of a lighting system has too often been provided with little judgment or without regard for the needs of the employees or the work to be performed. However, there is a

marked tendency among manufacturers to remedy such conditions, realizing that proper lighting facilities promote the efficiency of all the employees and especially those who have to operate intricate and dangerous machinery. It also increases the output of the plant and to a marked degree reduces the hazard of the industry, all of which tends to establish safer working conditions.

I have mentioned these matters briefly to show the necessity for augmenting the force to a point in keeping with the task imposed on the Department by the numerous laws, the enforcement of which is part of our duty, and for which critical public sentiment holds us responsible.

MERCANTILE INSPECTION

The work of this division shows a marked increase over last year. According to the last census the city of Binghamton has become a second class city, and thus comes under the provisions of the mercantile law.

I concur in the recommendations of the Acting Chief of the Division, and approve of the recommendation to extend the provisions of the mercantile law and the day-of-rest law to restaurants. There is a very large percentage of females employed in restaurants and the women employed therein are compelled to work long hours, and in most instances seven days a week. There is every reason why the provisions of the law should apply to these establishments.

It is impossible to properly enforce the mercantile law with the present number of mercantile inspectors. The force should be increased in order that the Bureau may properly enforce the mercantile law in cities of the first and second class, in order that the thousands of mercantile employees in the other cities throughout the state shall enjoy the benefit of the day-of-rest law, which cannot be thoroughly enforced because of the inadequate force of inspectors at the command of the Mercantile Division.

PROSECUTIONS

Prosecutions in the factory division, as shown in a table in later pages, are set forth in two sections, namely, cases pending on October 1, 1914, and cases instituted during the fiscal year 1915.

In the first section 274 cases were pending on October 1, 1914, 8 of which are still pending; 191 being dismissed or acquitted; and 10 withdrawn; 36 convicted and sentence suspended; 29 convicted and fined, the fines aggregating \$955. In the second section there was a total of 750 cases begun during the fiscal year, of which 171 were pending on October 1, 1915; 259 were dismissed and acquitted, and 9 withdrawn; 171 were convicted and sentence suspended; 140 convicted and fined, the fines aggregating \$3,432. The total amount of fines for all factory cases disposed of during the year was \$4,387.

MERCANTILE VIOLATIONS

Mercantile prosecutions are also set forth in two sections. There were 39 cases pending on October 1, 1914, which were disposed of during the fiscal year, resulting as follows: Five dismissed or acquitted; 15 pleaded guilty and sentence suspended; 8 pleaded guilty and fined; 3 convicted, sentence suspended; 7 convicted and fined; 1 bail forfeited. Amount of fines and forfeited bail, \$355. There were 780 prosecutions begun during the fiscal year 1915, 43 of which were pending on October 1, 1915; 47 were dismissed or acquitted; 7 dismissed or acquitted by jury; 4 withdrawn; 361 pleaded guilty, sentence suspended; 197 pleaded guilty and fined; 58 convicted, sentence suspended; 63 convicted and fined. The fines imposed aggregated \$5,502. The total fines for the mercantile cases disposed of during the year was \$5,857.

TENEMENT MANUFACTURES

The report of the Chief of the Division of Homework Inspection shows that 14,365 licenses were in effect at the end of the fiscal year, as compared with 12,848 at the end of the previous year. Of the number of licenses issued, 255 represent shops or factory buildings situated on the same lot but in the rear of a tenement house. In the 14,110 separate tenement house buildings there are 177,210 living apartments. This may give some idea of the amount of work to be accomplished by the division, and particularly if it be done as the law provides, so that all licensed tenement houses shall be inspected at least twice each year. In order that the work may be accomplished as contemplated by the provisions of the law, I

concur in the recommendations of the Chief of the Homework Division, in which he sets forth the necessity for an increase in the inspection force, in order that the work may be performed as the statutes direct.

SAFETY MANUAL

There is urgent necessity for providing the Department's inspection force with a manual. This should be carefully compiled, illustrating and describing the latest and most efficient methods of guarding the many different types of machinery, elevators, etc., and in addition, showing the most approved manner of eliminating many of the common hazards that are found in the various industries. This manual could be so arranged that parts of it could be printed in pamphlet form and be made very serviceable to the different classes of manufacturing establishments. The purpose of such manual should be to establish standards and properly demonstrate the best means of remedying the dangerous conditions that are prevalent in many of the industries of the state.

MACHINERY CODE AND SAFETY COMMITTEES

There should be special attention given to the proper safeguarding of machinery and other hazardous conditions, with a view to reducing to the minimum the industrial hazards as they apply to the industries of the state.

In connection with a program of this character, it becomes essential that a proper machinery code be provided as soon as possible. Such a code would be educational and beneficial to the factory owners and managers who are desirous of knowing just what will be acceptable to the Department as proper safe-guards on the different types of machinery.

In addition to the machinery code, there should be proper rules requiring the organizing of safety committees of employees in such industries as are hazardous. These rules should be such as would guide these committees in making the conditions of their respective plants meet the highest standard of safety, and enable them to reduce the injuries of the employees to the lowest number. By the development of these committees, there is no question of the vast improvement that can be accomplished for the protection of the employees in the hazardous occupations, by developing and

providing proper safe-guards and the elimination of unsafe working conditions that may exist in many of the industries of the state. Through the work of these committees much can be done to instill in the minds of the employees that which is most essential, the necessity of using proper care and judgment in the performance of their duties, and in this way protect their fellow-workers and themselves from injury, and be a real militant force in the crusade for "Safety First," which means their deliverance from industrial injuries, and which will also reduce the cost of compensating injuries to the industries of the state, and thus preserve the efficiency of the workers of the state.

JAMES L. GERNON,

First Deputy Commissioner.

(2) STATISTICS OF FACTORY INSPECTION†

WORK OF FACTORY INSPECTORS

YEAR ENDED SEPTEMBER 30, 1915

	First Inspection District	Second Inspection District	Total State	1914
Number of regular inspections of:				
Factories occupying whole buildings.....	4,559	9,164	13,723	13,235
Tenant factories.....	20,507	4,841	25,348	32,608
Bakeries.....	123	1,802	1,925	2,090
Total.....	25,189	15,807	40,996	47,933
Number of special inspections (with or without orders).....	2,764	4,105	6,869	14,759
Number of complaints investigated.....	2,089	207	2,296	6,380
Number of compliance visits:				
First visits.....	22,508	8,867	31,375	33,513
Subsequent visits.....	22,127	8,797	30,924	63,614
Total.....	44,635	17,664	62,299	117,127
Number of tagging cases (exclusive of "assisting"):				
Section 95.....	235	5	240	871
Section 114.....	35	2	37	11
Section 81.....	4	15	19	13
Section 19.....	....	....	....	10
Total.....	274	22	296	905
Number of miscellaneous matters.....	42,203	9,717	51,920	52,464

† Compiled by Bureau of Statistics and Information.

ORDERS ISSUED BY THE DIVISION OF FACTORY INSPECTION AND REPORTED

SUBJECT OF ORDERS

-
- I. ADMINISTRATION:**
1. Posting of laws, permits, notices, etc.....
 2. Keeping of records, registers, etc.....
 3. Reporting to Department.....
 4. Interfering with inspector.....
- II. SANITATION: (a)**
1. Toilet facilities:
 - a. Water closets.....
 - b. Wash rooms.....
 - c. Dressing rooms.....
 2. Cleanliness or repair of workrooms, halls, etc.....
 3. Ventilation, heat and humidity:
 - a. General.....
 - b. Removal of dust, fumes, etc.....
 4. Lighting.....
 5. Meals.....
 6. Drinking water.....
 7. Sanitation of living quarters.....
- III. ACCIDENT PREVENTION:**
1. Elevators and hoistways.....
 2. Machinery (including vats, pans, etc.).....
 3. Switchboards.....
 4. Stairs, pits, floors, etc. (including repairs).....
 5. Lighting to prevent accidents.....
- IV. FIRE PROTECTION:**
1. Structural conditions:
 - a. Number of exits.....
 - b. Doors, doorways and windows.....
 - c. Stairways.....
 - d. Fire escapes.....
 - e. Partitions.....
 - f. Openings.....
 - g. Other or general.....
 2. Clear means of egress.....
 3. Fire alarms and drills (b).....
 4. Waste and inflammable materials.....
 5. Gas jets.....
 6. Smoking (b).....
 7. Sprinklers (b).....
 8. Number of occupants.....
 9. Fire escapes other than structural conditions.....
 10. Provide fire extinguisher.....
- V. CHILDREN:**
1. Under 14 years (c).....
 2. From 14 to 16 years:
 - a. Certificates (c).....
 - b. Hours (c).....
 - c. Prohibited occupations.....
- VI. WOMEN AND MALE MINORS:**
1. Hours.....
 2. Prohibited occupations.....
 3. Employment after childbirth.....
 4. Seats for women.....
-

NOTE—For footnotes see following pages.

COMPLIANCES THEREWITH FROM OCTOBER 1, 1914, TO SEPTEMBER 30, 1915

NUMBER OF ORDERS ISSUED IN—			NUMBER OF COMPLIANCES REPORTED IN—		
Inspection District No. 1	Inspection District No. 2	Total State	Inspection District No. 1	Inspection District No. 2	Total State
27,803	6,238	34,041	27,471	4,983	32,454
27,420	5,566	32,986	27,143	4,658	31,801
208	546	754	170	206	376
175	126	301	158	119	277
.....
24,150	17,268	41,418	17,451	16,796	34,247
13,673	7,356	21,029	9,483	6,971	16,454
1,659	2,494	4,153	996	2,109	3,105
2,328	1,244	3,572	1,438	1,111	2,549
5,800	4,123	9,923	5,104	4,814	9,918
79	87	166	50	71	121
452	1,499	1,951	250	1,266	1,516
27	10	37	34	31	65
57	370	427	47	371	418
75	85	160	59	51	110
.....	.....	.....	.....	1	1
20,058	30,639	50,748	14,280	23,849	38,129
6,529	8,480	15,009	3,059	4,441	7,500
11,607	19,874	31,481	9,850	16,800	26,650
239	365	604	222	726	948
801	1,599	2,400	604	1,519	2,123
877	371	1,248	545	368	908
26,247	7,463	33,710	19,148	8,230	27,378
4,589	1,596	6,185	246	255	501
3,624	1,273	4,897	3,729	1,701	5,430
3,711	379	4,090	246	72	318
230	62	292	1,608	671	2,279
1,701	62	1,763	77	8	85
163	40	203	47	6	53
.....	18	18	.....	1	1
8,178	2,952	11,130	9,644	4,605	14,249
13	.....	(b) 13	.....	.....	(b).....
1,674	692	2,366	1,585	701	2,286
1,130	75	1,205	1,376	115	1,491
.....	7	(b) 7	.....	4	(b) 4
.....	.....	(b).....	.....	.....	(b).....
667	52	719	313	10	323
567	251	818	277	80	357
.....	4	4	.....	1	1
.....	4	4	3	16	19
.....	.....	(c).....	.....	.....	(c).....
.....	.....	(c).....	.....	.....	(c).....
.....	4	(c).....	.....	.....	(c).....
.....	.....	4	3	16	19
164	249	413	113	227	340
103	215	318	48	174	222
1	4	5	.....	7	7
.....
60	30	90	65	46	111

ORDERS ISSUED AND REPORTED

SUBJECT OF ORDERS

VII. MISCELLANEOUS:	
1. Payment of wages.....	
2. Day of rest.....	
3. First aid appliances.....	
4. Screens for stairs.....	
Total.....	

* The number of inspections on which these orders were issued was 24,130 in the first district, 11,666 in the second, and 35,796 for the State.

† "Locked doors" are not included in this entry for the reason that the Department does not issue orders when doors are found locked during the course of an inspection. Prosecution immediately ensues. There were 65 instances in the first district and 9 instances in the second in which locked doors were found by inspectors.

- (a) During the fiscal year ended September 30, 1915, there were referred to the Health Department of the first class cities the following orders:
- Referred by the First Inspection District to the Health Department of New York City, 428 orders concerning bakeries, mainly relating to sanitation;
 - Referred by the Second Inspection District to the Health Department of Buffalo, 16 orders concerning bakeries, mainly relating to sanitation;
 - Referred by the Second Inspection District to the Health Department of Rochester, 47 orders concerning bakeries, mainly relating to sanitation.

COMPLIANCES— (Continued)

NUMBER OF ORDERS ISSUED IN—			NUMBER OF COMPLIANCES REPORTED IN—		
Inspection District No. 1	Inspection District No. 2	Total State	Inspection District No. 1	Inspection District No. 2	Total State
2,943	697	3,640	2,396	734	3,130
29	54	83	14	24	38
2,579	531	3,110	2,239	656	2,895
315	109	424	115	49	164
20	3	23	28	5	33
*101,360	*62,608	*163,968	80,862	54,835	135,697

(b) The law concerning this subject is enforced in New York City by the fire commissioner, not by the Department of Labor. Elsewhere throughout the State, the State Fire Marshal enforced the provisions of the law concerning this subject until February 15, 1915, when that Department was abolished (Chapter 4, L. 1915). On April 21, 1915 (Chapter 347, L. 1915) the Department of Labor was charged with that duty.

During the fiscal year ended September 30, 1915, the following orders were referred to the respective officials:

	Referred by First Inspection District to Fire Commissioner of New York City:	Referred by Second Inspection District to State Fire Marshal:
Fire alarms.....	1,606	.....
Fire drills.....	538	.....
Sprinklers.....	182	.....
Smoking.....	55	11
Waste and inflammable material.....	9	.....
Explosives and blasting in quarries.....	.....	2
Boilers in quarries.....	.....	2

(c) See separate tabulation for children found illegally employed (except "prohibited occupations").

PROSECUTIONS FOR VIOLATIONS OF

SUBJECT OF LAW INVOLVED	FIRST INSPECTION DISTRICT					
	Num- ber of cases	RESULTS TO SEPTEMBER 30, 1915				
		Pend- ing	Dis- missed, ac- quitted or with- drawn*	Convicted		Fines
				Sen- tence sus- pended	Fined	
A. Proceedings Instituted						
II. SANITATION						
1. Toilet facilities:						
a. Water closets.....	4	....	4	....	....	.....
2. Cleanliness or repair of workrooms, halls, etc.....	....	....	....	....	....	.....
3. Ventilation, heat and humidity:						
b. Removal of dust, fumes, etc.....	....	....	....	....	....	.....
III. ACCIDENT PREVENTION						
1. Elevators and hoistways.....	31	....	25	4	2	\$100 00
2. Machinery (including vats, pans, etc.).....	6	....	2	3	1	25 00
5. Lighting to prevent accidents.....	3	....	2	1	....	.....
IV. FIRE PROTECTION.						
1. Structural conditions:						
b. Doors, doorways and windows.....	104	1	(3) 97	1	2	100 00
d. Fire escapes.....	31	....	(2) 28	1	....	.....
g. Other or general.....	....	....	....	....	....	.....
2. Clear means of egress:						
a. Locked doors.....	8	....	2	1	5	220 00
b. Other.....	5	....	4	....	1	20 00
4. Waste and inflammable material.....	1	....	1	....	....	.....
8. Number of occupants.....	4	....	4	....	....	.....
V. CHILDREN						
1. Under 14 years.....	1	....	....	....	1	20 00
2. From 14 to 16 years:						
a. Certificates.....	6	....	....	4	2	75 00
b. Hours.....	3	....	....	2	1	20 00
c. Prohibited occupations.....	1	....	....	....	1	50 00
VI. WOMEN AND MALE MINORS						
1. Hours.....	19	....	(1)	12	6	150 00
VII. MISCELLANEOUS						
1. Payment of wages.....	....	....	....	....	....	.....
2. Day of rest.....	5	....	....	2	3	60 00
5. Tenement houses.....	7	....	1	3	3	65 00
6. Construction of buildings in cities.....	1	....	....	1	....	.....
8. Physical examination of compressed air workers.....	1	....	....	1	....	.....
Total.....	241	1	(6) 170	36	28	\$905 00

* Withdrawn cases are given in parentheses.

THE LABOR LAW IN FACTORIES

SECOND INSPECTION DISTRICT						TOTAL STATE						Subject number
RESULTS TO SEPTEMBER 30, 1915						RESULTS TO SEPTEMBER 30, 1915						
Number of cases	Pending	Dismissed, acquitted or withdrawn*	Convicted		Fines	Number of cases	Pending	Dismissed, acquitted or withdrawn*	Convicted		Fines	
			Sentence suspended	Fined					Sentence suspended	Fined		
Prior to October 1, 1914												
4	4	....	....	....	8	....	8	....	....	....	II
1	(1)	....	....	....	1	....	(1)	....	....	....	1
1	(1)	....	....	....	1	....	(1)	....	....	....	2
4	4	....	....	....	35	....	29	4	2	\$100 00	3b
2	2	....	....	....	8	....	4	3	1	25 00	III
....	3	....	2	1	....	....	1
8	1	7	....	....	....	112	2	(3) 104	1	2	100 00	2
2	2	....	....	....	33	....	(2) 30	1	....	....	3
1	1	....	....	....	....	1	1	....	....	....	....	IV
....	8	....	2	1	5	220 00	1b
1	1	....	....	....	6	....	5	....	1	20 00	1d
....	1	....	1	....	....	....	1g
....	4	....	4	....	....	....	2a
....	2b
....	4
....	8
....	1	....	....	....	1	20 00	V
....	6	....	....	4	2	75 00	1
....	3	....	....	2	1	20 00	2a
....	1	....	....	....	1	50 00	2b
....	2c
1	1	....	....	....	....	20	1	(1)	12	6	150 00	VI
....	1
4	1	(2)	....	†1	\$50 00	4	1	(2)	....	1	50 00	VII
4	3	1	....	....	....	9	3	1	2	3	60 00	1
....	7	....	1	3	3	65 00	2
....	1	....	....	1	....	....	3
....	1	....	....	1	....	....	5
....	6
....	8
33	7	(4) 21	....	1	\$50 00	274	8	(10) 191	36	29	\$955 00	....

† Judgment in civil actions.

PROSECUTIONS FOR VIOLATIONS OF THE

SUBJECT OF LAW INVOLVED	FIRST INSPECTION DISTRICT					
	Number of cases	RESULTS TO SEPTEMBER 30, 1915				
		Pending	Dismissed, acquitted or withdrawn*	Convicted		Fines
				Sentence suspended	Fined	
B. Proceedings Instituted						
I. ADMINISTRATION						
4. Interfering with Inspector.....	2	....	(1)	1	....	.....
5. Operating bakery without permit.....	....	....	.....	....	....	.....
II. SANITATION						
1. Toilet facilities:						
a. Water closets.....	27	....	27	....	....	.....
b. Wash rooms.....	2	....	2	....	....	.....
c. Dressing rooms.....	3	....	2	1	....	.....
2. Cleanliness or repair of workrooms, halls, etc.....	....	....	.....	....	....	.....
3. Ventilation, heat and humidity:						
b. Removal of dust, fumes, etc.....	9	1	8	....	....	.....
7. Sanitation of living quarters.....	....	....	.....	....	....	.....
III. ACCIDENT PREVENTION						
1. Elevators and hoistways.....	50	12	(2) 34	2	....	.....
2. Machinery (including vats, pans, etc.).....	26	4	21	....	1	\$30 00
4. Stairs, pits, etc. (including repairs).....	....	....	.....	....	....	.....
5. Lighting to prevent accidents.....	1	....	1	....	....	.....
IV. FIRE PROTECTION						
1. Structural conditions:						
a. Number of exits.....	71	53	(1) 17	....	....	.....
b. Doors, doorways and windows.....	51	5	(2) 43	1	....	.....
c. Stairways.....	2	1	1	....	....	.....
d. Fire escapes.....	13	....	13	....	....	.....
g. Other or general.....	58	42	6	8	2	100 00
2. Clear means of egress:						
a. Locked doors.....	43	5	6	13	19	663 00
b. Other.....	24	1	20	2	1	50 00
4. Waste and inflammable material.....	....	....	.....	....	....	.....
8. Number of occupants.....	7	3	4	....	....	.....
V. CHILDREN						
1. Under 14 years.....	6	1	.....	5	....	.....
2. From 14 to 16 years:						
a. Certificates.....	28	4	3	10	11	220 00
b. Hours.....	33	3	1	14	15	317 00
c. Prohibited occupations.....	3	....	.....	2	1	20 00
VI. WOMEN AND MALE MINORS						
1. Hours.....	106	5	1	54	46	1,025 00
VII. MISCELLANEOUS						
1. Payment of wages.....	....	....	.....	....	....	.....
2. Day of rest.....	28	3	3	11	11	220 00
5. Tenement houses.....	7	....	.....	6	1	20 00
Total.....	600	143	(6) 213	130	108	\$2,667 00
Grand total.....	841	144	(12) 383	166	136	\$3,572 00

* Judgment in civil actions.

LABOR LAW IN FACTORIES—(Concluded)

SECOND INSPECTION DISTRICT						TOTAL STATE						Sub- ject num- ber
RESULTS TO SEPTEMBER 30, 1915						RESULTS TO SEPTEMBER 30, 1915						
Num- ber of cases	Pend- ing	Dis- missed, ac- quitted or with- drawn*	Convicted		Fines	Num- ber of cases	Pend- ing	Dis- missed, ac- quitted or with- drawn*	Convicted		Fines	
			Sen- tence sus- pended	Fined					Sen- tence sus- pended	Fined		
in Current Year												
..... 8	.....	..... 5	..... 3	.....	.....	2 8	.....	(1) 5	1 3	.....	.....	I 4 5
2	.....	2	.....	.....	.....	29	.....	29	.....	.....	.....	II 1a
2	.....	2	.....	.....	.....	4	.....	4	.....	.....	.....	1b
1	.....	1	.....	.....	.....	4	.....	3	1	.....	.....	1c
2	.....	2	.....	.....	.....	2	.....	2	.....	.....	.....	2
2	.....	2	.....	.....	.....	11	1	10	.....	.....	.....	3b
4	4	.....	.....	.....	.....	4	4	.....	.....	.....	.....	7
3	.....	2	1	.....	.....	53	12	(2) 36	3	.....	.....	III 1
6	.....	5	1	.....	.....	32	4	26	1	1	\$30 00	2
1	.....	1	.....	.....	.....	1	.....	1	.....	.....	.....	4
.....	.....	.....	.....	.....	.....	1	.....	1	.....	.....	.....	5
IV												
3	2	(1)	.....	.....	.....	74	55	(2) 17	.....	.....	.....	1a
5	1	3	1	.....	.....	56	6	(2) 46	2	.....	.....	1b
.....	.....	.....	.....	.....	.....	2	1	1	.....	.....	.....	1c
.....	.....	.....	.....	.....	.....	13	.....	13	.....	.....	.....	1d
3	.....	3	.....	.....	.....	61	42	9	8	2	100 00	1g
5	.....	2	2	1	\$25 00	48	5	8	15	20	690 00	2a
.....	.....	.....	.....	.....	.....	24	1	20	2	1	50 00	2b
2	.....	2	.....	.....	.....	2	.....	2	.....	.....	.....	4
.....	.....	.....	.....	.....	.....	7	3	4	.....	.....	.....	8
8	4	1	2	1	20 00	14	5	1	7	1	20 00	V 1
7	2	1	4	.....	.....	35	6	4	14	11	220 00	2a
17	1	(1) 2	13	.....	.....	50	4	(1) 3	27	15	317 00	2b
2	.....	1	1	.....	.....	5	.....	1	3	1	20 00	2c
26	9	5	8	4	110 00	132	14	6	62	50	1,135 00	VI 1
VII												
5	1	(1)	.....	13	\$150 00	5	1	(1)	.....	3	150 00	1
36	1	7	5	23	460 00	64	4	10	16	34	680 00	2
.....	.....	.....	.....	.....	.....	7	.....	.....	6	1	20 00	5
150	25	(3) 49	41	32	\$765 00	750	168	(9) 262	171	140	\$3,432 00	.....
183	32	(7) 70	41	33	\$815 00	1,024	176	(19) 453	207	169	\$4,387 00	.....

* Plus costs; recovered in civil actions.

**CHILDREN FOUND ILLEGALLY EMPLOYED OR FOR WHOM PROOF OF AGE WAS
DEMANDED IN FACTORIES IN YEAR ENDED SEPTEMBER 30, 1915.**

FIRST INSPECTION DISTRICT			
Found illegally employed:	Males	Females	Total
Less than 14 years of age (discharged).....	6	2	8
14 to 16 years of age (without certificate).....	100	96	*196
Working illegal hours.....	111	113	224
Total.....	217	211	†428
Children for whom proof of age was demanded:††			
Age proven 16.....	5	22	27
Age proven 14 to 16 (certificate secured).....			
Age proven less than 14 (discharged).....			
Discharged without proof of age.....			
Total.....	5	22	27
SECOND INSPECTION DISTRICT			
Found illegally employed:			
Less than 14 years of age (discharged).....	25	9	**34
14 to 16 years of age (without certificate).....	59	47	§106
Working illegal hours.....	52	43	95
Total.....	136	99	†235
Children for whom proof of age was demanded:			
Age proven 16.....	12	7	19
Age proven 14 to 16 (certificate secured).....			
Age proven less than 14 (discharged).....			
Discharged without proof of age.....	11	6	17
Total.....	23	13	36
TOTAL STATE			
Found illegally employed:			
Less than 14 years of age (discharged).....	31	11	42
14 to 16 years of age (without certificate).....	159	143	302
Working illegal hours.....	163	156	319
Total.....	353	310	663
Children for whom proof of age was demanded:			
Age proven 16.....	17	29	46
Age proven 14 to 16 (certificate secured).....			
Age proven less than 14 (discharged).....			
Discharged without proof of age.....	11	6	17
Total.....	28	35	63

NOTE.—The above violations and demands for proof of age in the First Inspection District were found in 307 New York City factories. Those in the Second Inspection District were found in 149 factories, 14 of which were in Buffalo and 27 in Rochester.

* In 74 cases the children secured the required certificates.

† The total here represents the number of violations found; there were 39 duplications — cases in which children between 14 and 16 years of age without certificates were being employed illegal hours.

†† In the First Inspection District the Department issues to children upon request certificates of age of more than 16 years upon production of sufficient proof of age. In 1915 the Division of Factory Inspection issued 2,862 such certificates, the evidence of age being school records in 1,419 cases, birth certificates in 805, baptismal certificates in 285, passports in 203, mothers' affidavits in 130, institution records in 15, and life insurance policies in 5.

** In 11 cases the children were found to be working more than eight hours a day or before 8 a. m. or after 5 p. m.

§ In 18 cases the child had secured the required certificate, but it was not on file with the employer; in 7 cases the inspector reported that child secured the certificate.

‡ The total here represents the number of violations found; there were 50 duplications — cases in which children between 14 and 16 years of age without certificates were being employed illegal hours.

WORK OF THE DIVISIONS OF ENGINEERING AND OF APPEALS OF THE BUREAU
OF INSPECTION FOR YEAR ENDED SEPTEMBER 30, 1915 *

	Year ended Sep- tember 30, 1915
Number of inspections of:	
Tenant factories.....	7
New buildings.....	3
Alterations on existing buildings.....	125
Fireproofing.....	600
Fire escapes.....	614
Total.....	1,349
Number of special inspections.....	2
Number of complaints investigated.....	5
Number of compliance visits.....	5
Number of tagging cases (exclusive of "assisting"):	
Section 19.....	4
Number of miscellaneous matters.....	6,523

* These divisions have jurisdiction in the First Inspection District only. Similar work in the Second Inspection District is reported in connection with the work of the factory inspectors (q. v.)

(3) REPORT OF DIVISION OF HOMEWORK INSPECTION

To the First Deputy Commissioner:

The report of the activities of the Division of Homework Inspection for the year ending September 30th, 1915, is herewith respectfully submitted.

At the close of the present report year there was a total of 14,372 licenses, as compared with 12,861 at the end of the previous year, distributed as follows:

New York City.....	13,847	Albany.....	80
		Buffalo.....	34
Bronx.....	1,162	Rochester.....	324
Brooklyn.....	4,721	Syracuse.....	7
Manhattan.....	7,744	Utica.....	76
Queens.....	216	Troy.....	1
Richmond.....	4	Yonkers.....	1
Long Island.....	2		

Of these, 255 represent shop or factory buildings situated on the same lot, but in the rear of tenement houses, and 14,117 represent separate tenement house buildings. The total number of living apartments in these tenement houses are 177,210, 75 per cent of which apartments were looked into by the field force in their annual inspection visit. There were 2,543 new licenses issued, 52 were revoked for sanitary reasons, 981 licenses were cancelled on account of all work having ceased in them, 249 licenses were refused on first visit of inspection and 4 on second visit, the applications for the latter being cancelled as the tenement houses to which they related were found to be habitually unfit and dirty.

The total of inspections, visitations and other acts performed by the field force of fourteen inspectors assigned to this division for the year amounted to 32,101, divided as follows: Inspections of licensed buildings, tenements and shops, 14,512; inspections made of buildings seeking to be licensed, 2,789; reports of observation visits to houses not licensed, 2,250; complaints investigated, 206; visits made to secure or verify compliances, 2,836; visits of a miscellaneous character and not otherwise charged, 9,508. Much time was devoted to patrolling in congested localities where factory

work is given out in greatest quantities and where children would most likely be found employed in the home in the early or late part of the day or on holidays, etc.

The tenement tag was used 122 times in order to enforce the prompt removal of wrongful conditions found by the inspector. The tag still holds its place as an effective means of compelling tenants, and very often owners, who are negligent in keeping up the standard of cleanliness demanded by the department before issuing a license.

Of 14,110 tenements inspected, 5,648 were found to contain no work of any kind at the time of inspection. In the remaining 8,452 licensed tenements, 18,055 persons were found at work on some article coming within the provisions of the law; of this number, 3,367 persons were found employed in 1,363 store shops, having no connection with any living rooms or apartments. The actual number of persons found at work in living rooms was 14,688, and the apartments wherein they worked numbered 11,404. Of all the persons found working at home, 8,569 were engaged on articles intended for personal use or the trade commonly called custom, that is, articles prepared for personal customers and not for the retail trade. There were 9,486 home workers found at work on some article sent out from a factory or shop; of this number, 5,667 were employed on articles of wearing apparel; 1,388 on artificial flowers; 753 on embroidery of some kind; leaving only 1,678 persons employed on miscellaneous articles. Of the 2,250 observation reports submitted of unlicensed houses, in only 726 was there any work found coming under the law, and the work thus found was, in the main, of the custom or individual kind and not from a factory.

The above clearly demonstrates the effect of the enforcement of the law in checking the indiscriminate giving out of work from factories to tenements. There were 738 persons found employed in living rooms who did not reside therein. Of these outside hands, 654 were employed legally by custom dressmakers who came within the exceptions contained in section 100, leaving but 84 persons employed in violation of law, nearly every one of whom was found at work with journeymen tailors on custom work sent out by merchant tailoring houses. There were 28 cases of disease

reported in tenements, three of which cases were found in rooms in which work was proceeding. All such matters were promptly treated as directed by section 103.

Tenement house owners to the number of 683 were notified to comply with the provisions of section 105; 1,909 employers were notified to label articles sent by them into tenements, as required by section 101; 71 manufacturers and contractors were notified to withdraw all work from tenement workers, as directed by section 104, relating to infants' or children's wearing apparel; and 1,395 notices to factory owners to comply with the provisions of section 106 were sent out. There were 881 factory permits issued and 92 permits were cancelled. There were 462 children reported as at work in the home on factory articles. The great bulk of these children were found on the west side in the flower section. Immediate and drastic action was taken in every case of this character. The places where little children were found at work were revisited and watched and in consequence our records show less than a dozen repetitions of the violation by the same persons. We have pursued the same methods in dealing with illegal employment of children in the home as were set forth in my annual report of last year as follows:

The change made in the law, which aims to give the Department control over the employment of children in the home, under 16 years of age, is very complicated, and most difficult of enforcement; in fact cannot be enforced as it is written. The responsibility sought to be placed on the factory owner who employs the parent to do the work in the home, cannot be made to work out in fact, as was desired in theory. To make this feature of the law really effective, responsibility should be made to rest directly on the person, parent or guardian having direct control over the child, and who compels or permits the little ones to help with the work. My instructions to the inspectors on this subject left them no choice of action but to report all facts discovered by them when a child was found employed in the home illegally, which they did, but in all cases that were reported, not one contained sufficient elements of fact to warrant counsel to order the prosecution of the employer.

The experience of the year now past only serves to emphasize and confirm this view. The attitude of manufacturers toward this feature of the law, generally speaking, is all that could be asked for. No reports have reached me of connivance or scheme on the part of any employer to defeat the purpose of the law. In

every case where we have notified the manufacturer of the employment in the home of children under age on work furnished by him, his action in withdrawing the work from the hands of the offending worker has been prompt. This co-operation has been of great aid to the field worker. The method employed by the inspector is to stop work at once, notify the employer of the violation and then force the mother to understand that if she persists in having her child help on the work she will not be permitted to take in any work at all.

While this method serves the purpose, it is far from being satisfactory. Surely some one is blamable for having the child at work. If the child were found at work in a factory there would be no question as to responsibility. The court always fixes that on the owner of the factory. In this case the owner of the factory has no dealings with the child. He may not even know of the child's existence. He deals with the parent and warns the parent under penalty to stop all work, that children under age must not help or touch the work. The parent is the employer in this case, and whether he forces the child to do the work or merely allows, without stress, the little one to work is immaterial; the responsibility should be placed on the person, parent or guardian who thus forces or allows the young child to engage in employment of this kind. The ages of children reported range from 4 to 15½ years.

Persons belonging to 32 different races were found engaged in doing homework. The predominating numbers engaged were Italians, 7,773; Jews, 6,647; Germans, 1,074; Americans, 1,000; leaving 1,561 workers to be charged to the other 28 races respectively.

The depressed industrial conditions prevailing during the year forced many women to take up home work who never before engaged in such employment. It was quite common to be told that "the times are so hard and my husband has been out of work so long that I feel I must try and do something to help out," or "I have small children who must be fed and my husband has been unable to find anything to do in months, so I must try and do something to earn even a little money to keep going until he gets a job," etc. Very few of these beginners continue at the work for any great length of time, for the progress is too slow and the

compensation is too small to give much encouragement to the beginner.

Experience teaches that necessity is the greatest impetus to this line of work. We are in almost constant contact with that side of life where the struggle of existence is greatest and where misery, want and destitution cannot be hidden. We come in contact every day with the good mother who is seeking and struggling as only a mother can struggle to keep her little ones together about her. The father is dead, the father is gone away, or is ill, or is unable to find employment. No matter what the cause, the family is in want and the mother has taken upon her weak shoulders the burden and care of providing for the wants of her helpless ones. Section 104 should be modified, giving power to the Industrial Commission to draw a line in the matter of children's clothing.

I am forced to again repeat my annual suggestion that more inspectors should be furnished to this division to enable it to perform the work of tenement house inspection as the statute directs that it should be done. The law demands that all licensed tenement houses "shall" be inspected "at least" twice each year. This cannot be done with the present field force. I might be able to go much further in this direction if I were given at least six more inspectors.

The general conditions are satisfactory. We have no sweat shops in this state to-day. The shop in the tenement house living room is a thing of the past. We cannot transform a dirty house-keeper into a clean, tidy one, but we can and we do keep the dirty one from engaging in homework until satisfactory sanitary conditions are made to prevail. No such foul conditions are met with in tenements like those of a few years ago. We do the best we can and will continue to do so even though we are not able to do all that the law demands.

I am pleased to be able to report that the work of the division on the whole for the year has been satisfactory. The inspectors have, as a rule, been attentive to their duties and zealous in prosecuting their labors.

We will try, and if it is at all possible to do so, make the work of the division more thorough and efficient.

DANIEL O'LEARY,
Chief of Division.

SUMMARY OF WORK OF HOME WORK INSPECTORS

	1915	1914	1913	1912	1911
Investigations (including re-investigations) of applications for license.....	2,789	3,823	2,322	2,072	1,761
Inspections of licensed buildings.....	14,512	12,199	11,238	12,755	13,403
Observations.....	2,250	2,295	3,141	2,305	1,687
Inspections of tenement factories.....	310	484	.....	.....	.....
Tagging cases (exclusive of "assisting") under section 102.....	122	284	239	102	78
Complaints investigated.....	206	275	*.....	*.....	*.....
Compliance visits.....	2,836	8,917	*.....	*.....	*.....
Miscellaneous matters.....	9,508	12,553	*.....	*.....	*.....

*Comparative figures not available.

LICENSING OF TENEMENTS IN YEAR ENDED SEPTEMBER 30, 1915

	New York City	Remainder of State	Total
Licenses outstanding October 1, 1914.....	12,360	*501	12,861
Applications pending October 1, 1914.....	100	.....	100
Applications received.....	2,444	50	2,494
Total.....	2,544	50	2,594
Applications cancelled.....	124	1	125
Applications pending September 30, 1915.....	24	.....	24
Licenses granted:			
On first investigation.....	2,358	49	2,407
On re-investigation.....	138	.....	138
Total.....	2,496	49	2,545
Licenses cancelled.....	956	25	981
Licenses revoked.....	53	.....	53
Total.....	1,009	25	1,034
Licenses outstanding September 30, 1915.....	13,847	525	14,372

*Corrected figures instead of 502 as given in report for 1914.

REGISTERS OF OUTSIDE WORKERS

YEAR ENDED SEPTEMBER 30	Notifi- cations issued	Registers filed	Not found or out of business	Reported no outside hands
1915.....	1,852	1,847	313	345
1914.....	3,407	1,886	154	167
1913.....	1,318	636	47	113
1912.....	4,164	1,976	253	212
1911.....	1,658	718	74	93
1910.....	2,924	1,999	463	262
1909.....	2,947	2,292	258	342
1908.....	2,743	2,101	330	432
1907.....	5,740	1,832	327	576

PERMITS TO FACTORY OWNERS TO SEND WORK TO TENEMENTS

Permits outstanding October 1, 1914.....	1,372
Issued during year.....	881
Cancelled during year.....	92
Outstanding September 30, 1915.....	2,161

(4) REPORT OF DIVISION OF MERCANTILE INSPECTION

To the First Deputy Commissioner:

To the report of the Division of Mercantile Inspection hereby submitted are appended tables showing in detail the work of the division. The report for the past year shows an increase over that of the preceding year, notwithstanding the fact that we have had additional duties placed upon us by the adoption of the Industrial Code, and the enactment of section 161-a requiring the posting of the hours of labor of women and children in mercantile establishments.

Section 161-a is the most valuable addition made to the mercantile law, as only by the posting of the hours of labor of females and minors could we ever hope to prove that they were not employed more than the legal number of hours per day. Greater results were also accomplished in the enforcement of section 8-a, known as the day-of-rest law. Inspections were made throughout the state in the villages and cities other than those of the first and second class, and for failure to comply with this law after due notice had been given, prosecution was brought. We are unable to give proper attention to this section of the law in third class cities and villages with our present force of inspectors without neglecting our regular work in the first and second class cities.

Since October 1, 1915, our field of duty has also been enlarged by the addition of Binghamton to the list of second class cities where we are charged with the enforcement of all the provisions of Article 12.

COMPLAINTS

During the fiscal year 1914-1915, we received 1,167 complaints covering twenty-four different subjects. Of this number, 753 were anonymous, and 414 were signed by the persons making the complaints. Whenever the names and addresses of the persons making the complaints were furnished, the Division communicated with them and they were informed as to the results of our findings. Of the 1,167 complaints investigated, 534 were sustained and 633 were not sustained; 367 were in relation to violations of section 8-a, the day-of-rest law; 184 related to females working over nine

hours a day; 115 related to the employment of children under fourteen; 97 related to females working more than 54 hours a week; 82 related to children employed without employment certificates; and 67 related to females employed after 10:00 p. m. The various subjects about which complaints were made are shown in an appended table.

CHILD LABOR

One of the most important problems the Mercantile Division has to deal with, is that of the enforcement of the law relating to the employment of children. Illegal employment and the working of illegal hours of those children legally employed still exists, and undoubtedly will continue until the courts deal more seriously with the offenders. During the past year there were found 2,569 children under sixteen years of age legally employed; illegally employed, 726 under fourteen years of age, and 1,418 between fourteen and sixteen years without employment certificates, making a total of 2,144 illegally employed, or 45.5 per cent of the 4,713 children found employed. There is a decrease of 2,781 children found employed in the past year from that of the previous year, while the total number of inspections exceeds that of the preceding year by 1,713.

Following is a condensed tabulation showing figures as to child labor for the past seven years:

YEAR	Inspections made	Total	CHILDREN FOUND EMPLOYED ILLEGALLY		
			14-16 yrs.		Total
			Under 14 yrs.	without certificates	
1909.....	12,803	6,070	756	2,365	3,121
1910.....	9,687	4,832	711	1,660	2,371
1911.....	8,997	3,828	421	1,154	1,575
1912.....	8,395	4,925	756	1,346	2,102
1913.....	12,860	6,794	940	1,820	2,760
1914.....	27,216	7,494	846	1,761	2,607
1915.....	29,011	4,713	726	1,418	2,144

HOURS OF LABOR OF FEMALES

During the fiscal year a new section was added to Article 12, which has been of material benefit in enforcing the provisions regarding the employment of females over sixteen years of age. I refer to section 161-a, which requires that a printed notice in a form which shall be furnished by the Industrial Commission, stat-

ing the number of hours per day for each day of the week required of all employees enumerated in section 161, and the time when their work shall begin and end, shall be kept posted in a conspicuous place in each establishment. Formerly there were undoubtedly numerous instances where females were compelled to work more than the legal number of hours per day or per week, and we were unable to prove these violations unless the employee would make an affidavit to that effect. With this amendment to the law it is only necessary, in order to prove a violation, to find them working before or after the posted hours. While this amendment has only been in effect a short time, it has proved of inestimable benefit to thousands of female employees who were formerly compelled to work longer hours than the law required, and also to the Department which now has less difficulty in establishing a violation.

The posting of hours in mercantile establishments has greatly increased the amount of work the inspectors have to perform, and I have reason to believe that while we will achieve greater results from the effects of this work, the number of inspections we will be able to make will be decreased. At present section 161, subdivision 2, only regulates the hours of women in mercantile establishments. This section should be amended so as to regulate the hours of females employed in restaurants, theaters and other places of amusement. The only provision now made for female employees in restaurants is that of providing seats and the time allowed for meals, and as the Legislature has seen fit to recognize the importance of these conveniences, it should go a step further in regulating the number of hours they may be employed, and also include that they shall not work more than six days in a calendar week. In theaters and other places of amusement the employment of females as ushers and ticket sellers is constantly increasing, and as there is no regulation of the hours, they are required in many instances to work longer hours and later in the evening than females employed in mercantile establishments. There should be no discrimination in the hours of labor required of women employed in factories, mercantile establishments and other places of employment, and I am of the opinion that if the hours of women employed in restaurants and theaters were regulated by law, we would obtain a more ready compliance from those whom the law now affects.

LUNCH HOURS

In establishments where employees are required to work after seven o'clock in the evening, section 161, subdivision 3, provides that they shall be allowed not less than twenty minutes to obtain lunch or supper. This should be amended so as to provide for not less than forty-five minutes for the evening meal, as the time now provided for such purpose is far too short for any person to leave his place of employment, obtain supper and return to work.

DAY-OF-REST LAW

We are held responsible for the enforcement of section 8-a of Article 2, commonly called the day-of-rest law, in mercantile establishments in all villages and cities throughout the state, and in order to accomplish this we were obliged to take a number of our inspectors from the regular districts and send them out on this work. In the various cities and villages throughout the state there are more mercantile establishments than factories, and with our limited force of inspectors it is impossible to do justice to the enforcement of the provisions of this law. The amount of work to be done in connection with this section is almost inconceivable; we are required to furnish a personal notice on the merchant requiring him to comply with the law, to see that a schedule of all persons working on Sundays is posted in his establishment, and that a copy of the same is filed with the Department. In order to secure a compliance with this law, the inspector is compelled to visit these establishments on Sunday to observe that the notice is posted, and also on a week day to learn if the employee is receiving his twenty-four hours rest period. During the past year 2,480 inspections were made in 150 third class cities and villages having a population of 2,000 and over, and 58 prosecutions were begun; the total number of hours spent in this work, including traveling, was 1,924 hours or 240 days.

Since July we have been compelled to confine ourselves to our regular duties in first and second class cities, and no inspections in the third class cities and villages have been made since that time. I would recommend that this section be amended to include employees working in restaurants, theaters and other places of amusement. During the past year we have received numerous

complaints of the long hours required of persons working in restaurants, and also that they receive no day of rest. This is practically the only section under our jurisdiction from which male employees derive any benefit, and, therefore, should be amended to include other kinds of business besides factories and mercantile establishments. In our work of enforcing the provisions of section 8-a in the villages and cities other than those of the first and second class, we have discovered that there has been no effort made by the local authorities to enforce the law in regard to the employment of women and children, and in many instances on inspections being made, we found that children under the legal age were employed from 60 to 80 hours a week. The hours of females over sixteen years of age employed in these places were also more than the legal number allowed per week, and in many instances I recollect they were working fourteen hours a day and seven days a week.

Many complaints were made because of this condition by employees, who wondered why they were not entitled to the protection of the state as well as the people in first and second class cities. Toilet facilities also are far from being perfect, and I urgently recommend that for the benefit of the women and children employed throughout the state, section 172 be amended so as to place the authority for enforcing the provisions of Article 12 in all villages and cities with the State Industrial Commission.

SANITARY CONDITIONS AND CONVENIENCES

With the adoption of the rules and regulations of the Industrial Code, relative to sanitary conditions in mercantile establishments, our duties were greatly enlarged. While the Code and the Labor Law provide for certain conditions, we are unable to enforce them inasmuch as the law fails to define whether the owner or tenant is responsible for a compliance. Much valuable time is wasted in endeavoring to secure a compliance with orders issued, often without results. This is a very important matter, and I recommend that the law be amended so as to place the responsibility.

In recommending this amendment to the law, I would suggest that we be given jurisdiction over sanitary conditions and conveniences in all establishments enumerated in section 161. During

the past year 11,814 orders relative to water closets were issued, and 10,508 compliances were secured; 843 orders were issued to provide water closets and 738 were complied with; 302 orders were given to provide washing facilities, and 210 compliances were secured.

PROSECUTIONS

On October 1, 1914, there were 39 prosecutions pending in court; 36 in New York City, 1 in Rochester and 2 in Albany. All were disposed of during the fiscal year as follows: Three dismissed by magistrate; 2 dismissed or acquitted in Special Sessions; 15 pleaded guilty, sentence suspended; 8 pleaded guilty, fined; 3 convicted, sentence suspended; 7 convicted, fined; 1 bail forfeited; amount of fines, \$330; bail forfeited, \$25. During the fiscal year 1914-1915, there were 780 cases where prosecutions were presented to the court: New York City, 653; Buffalo, 33; Rochester, 5; Syracuse, 9; Albany, 10; Yonkers, 4; Schenectady, 2; Troy, 3; Utica, 3; and third class cities, 8-a violations 58. The New York City cases were divided by boroughs as follows: Manhattan, 313; Brooklyn, 262; Bronx, 68; Queens, 9; Richmond, 1. Of the 780 cases begun during the year, 737 were disposed of as follows: Thirty-four dismissed by magistrate; 13 dismissed or acquitted, Special Sessions; 7 dismissed or acquitted by jury; 4 withdrawn; 361 pleaded guilty, sentence suspended; 197 pleaded guilty, fined; 58 convicted, sentence suspended; 63 convicted, fined. The amount of fines imposed, \$5,502; adding to this the fines in the cases pending from the preceding year, \$330, and forfeited bail, \$25, makes a total of \$5,857 in fines for the year.

In five cases second offense was alleged; four involving the employment of children and one for employing females over 54 hours; 3 pleaded guilty, fined; 2 were convicted and fined. Of the total of 780 cases for the year, 288 were for the failure to comply with the provisions of section 8-a, providing for a day of rest, and 371 involved the employment of children.

In conclusion, I desire to say that ample proof for the necessity of the enforcement by the Department of Labor of the laws relating to the employment of women and children in the establishments enumerated in section 161, has been shown by the results accomplished by the Division of Mercantile Inspection in the seven

years that this Division has been in existence. If the recommendations contained in this report meet with your approval, and are presented to the Legislature in the form of amendments to the law, much that now remains to be desired in properly enforcing the law without discrimination will be accomplished.

F. L. FISHER,
Acting Chief Mercantile Inspector.

WORK OF DIVISION OF MERCANTILE INSPECTION

	YEAR ENDED SEPTEMBER 30			
	1912	1913	1914	1915
Regular inspections:				
Mercantile.....	7,383	10,265	22,778	23,367
Office.....	146	855	1,149	380
Hotel.....	12	27	89	17
Bowling alleys.....	165	364	343	57
Places of amusement.....	47	98	103	106
Barber shops.....	.....	84	63	55
Shoe polishing stands.....	.....	60	46	24
Total.....	7,753	11,753	24,521	24,006
Special inspections:				
Mercantile.....	620	1,075	4,957	4,880
Office.....	6	15	83	105
Hotel.....	.....	5	2	17
Bowling alleys.....	8	4	39	1
Places of amusement.....	8	8	12	5
Barber shops.....	.....	.....	.....	4
Shoe polishing stands.....	.....	.....	10	6
Total.....	642	1,107	5,103	5,005
Investigations:				
Complaints.....	235	253	913	1,167
Compliances.....	3,090	4,476	21,472	20,672
Total.....	3,325	4,729	22,385	21,839

WORK OF MERCANTILE INSPECTORS, BY LOCALITIES

	Regular inspections		Special inspections		INVESTIGATIONS OF			
					Complaints		Compliances	
	1914	1915	1914	1915	1914	1915	1914	1915
New York City.....	17,273	13,858	2,407	4,593	771	1,021	16,801	15,545
Buffalo.....	984	3,181	19	156	26	41	450	1,100
Rochester.....	821	912	55	30	72	45	377	470
Total, first class cities.	19,078	17,951	2,481	4,779	869	1,107	17,628	17,115
Albany.....	550	449	46	42	13	4	604	523
Schenectady.....	603	492	36	17	4	5	488	501
Syracuse.....	771	1,387	23	50	26	31	681	521
Troy.....	356	405	32	69	.....	.....	343	514
Utica.....	485	399	41	7	.....	4	532	260
Yonkers.....	270	443	36	31	.....	7	393	850
Other places*.....	2,408	2,480	.....	10	1	9	803	388
Grand total.....	24,521	24,006	2,695	5,005	913	1,167	21,472	20,672

ORDERS AND COMPLIANCES

SUBJECT	Orders issued	Orders complied with
I. ADMINISTRATION		
Posting of laws, permits, notices, etc.....	4,248	3,894
Keeping of records, registers, etc.....	9	9
II. SANITATION		
Toilet facilities:		
Water closets.....	11,843	10,540
Wash rooms.....	744	516
Dressing rooms.....	288	203
Cleanliness or repair of workrooms, halls, etc.....	819	488
Meals.....	182	171
Drinking water and drinking cups.....	3	3
III. ACCIDENT PREVENTION		
Machinery.....	3	1
V. CHILDREN		
From 14 to 16 years of age:		
Hours.....	300	298
VI. WOMEN AND MALE MINORS		
Hours.....	1,562	1,518
Seats for women.....	49	31
VII. MISCELLANEOUS		
Day of rest.....	2,281	2,274
Deduction, from salaries, of premiums for sick or death benefit funds.....	5	5
Manufacturing and labeling mattresses.....	3	2
Total.....	22,339	19,953

*Enforcement of one day of rest in seven law.

CHILDREN FOUND IN MERCANTILE ESTABLISHMENTS

	14 TO 16 YEARS OF AGE,				Under 14				
	EMPLOYED —			years (illegally em- ployed)					
	LEGALLY		Illegally		TOTAL UNDER 16				
	Boys	Girls			1915	1914	1913	1912	
New York City.....	1,083	798	1,065	614	3,560	5,731	5,671	3,746	
Bronx.....	52	4	121	109	286	442	417	113	
Brooklyn.....	269	218	249	135	871	854	1,007	1,191	
Manhattan.....	726	568	668	356	2,318	4,379	4,103	2,419	
Queens.....	35	8	19	13	75	44	127	17	
Richmond.....	1	.....	8	1	10	12	17	6
Buffalo.....	172	9	174	54	409	565	581	585	
Rochester.....	157	167	28	3	355	149	542	594	
Total — First									
class cities: 1915..	1,412	974	1,267	671	4,324	.....	.....	.....
1914..	2,073	2,341	1,353	678	.....	6,445	.....	.....
1913..	2,062	1,972	1,820	940	.....	.....	6,794	.....
1912..	1,320	1,503	1,346	756	.....	.....	.....	4,925
Albany.....	30	23	31	17	101	185	*.....	*.....	
Schenectady.....	4	.....	15	4	23	115	*.....	*.....
Syracuse.....	65	4	49	15	133	369	*.....	*.....	
Troy.....	9	.....	27	9	45	88	*.....	*.....
Utica.....	33	4	15	9	61	222	*.....	*.....	
Yonkers.....	10	1	14	1	26	70	*.....	*.....	
Total — All									
cities: 1915....	1,563	1,006	1,418	726	4,713	.....	.....	.....
1914....	2,347	2,540	1,761	846	.....	7,494	.....	.....

* Enforcement of the Labor Law in mercantile establishments in second class cities was transferred to the Department of Labor on March 23, 1913.

PROSECUTIONS UNDER THE MERCANTILE LAW

RESULTS TO SEPTEMBER 30, 1915

SUBJECT OF LAW VIOLATED	No. of cases	Pend- ing	Dis- missed, acquitted or with- drawn*	CONVICTED		
				Sen- tence sus- pended	Fined	Fines
(A) <i>Proceedings Instituted before October 1, 1914</i>						
I. ADMINISTRATION						
Interfering with inspector.....	1	.....	.....	.....	1	\$20
V. CHILDREN						
Under 14 years of age.....	10	.....	.....	6	†4	†115
From 14 to 16 years of age:						
Certificates.....	8	.....	1	5	2	40
Hours.....	1	.....	.....	1	.....	.....
VI. WOMEN AND MALE MINORS						
Hours.....	1	.....	.....	1	.....	.....
VII. MISCELLANEOUS						
Day of rest.....	18	.....	4	5	9	180
Total.....	39	.....	5	18	16	\$355

(B) *Proceedings Instituted in Current Year*

I. ADMINISTRATION						
Interfering with inspector.....	4	.....	.....	2	2	\$65
II. SANITATION						
Toilet facilities:						
Water closets.....	2	.....	1	1	.....	.....
V. CHILDREN						
Under 14 years of age.....	117	12	(2) 3	67	33	665
From 14 to 16 years of age:						
Certificates.....	130	6	5	92	27	660
Hours.....	123	5	(1) 5	76	36	767
Prohibited occupations.....	1	.....	.....	1	.....	.....
VI. WOMEN AND MALE MINORS						
Hours.....	115	8	11	48	48	1,052
VII. MISCELLANEOUS						
Day of rest.....	288	12	(1) 29	132	114	2,333
Total.....	780	43	(4) 54	419	260	\$5,502
Grand total.....	819	43	(4) 59	437	276	\$5,857

* Figures in parentheses denote cases withdrawn.
† Includes one case in which bail of \$25 was forfeited.

DISTRIBUTION OF PROSECUTIONS BY KINDS OF BUSINESS

KIND OF BUSINESS	NUMBER OF PROSECUTIONS FOR VIOLATION OF LAW CONCERNING —				Total
	Chil- dren	Women	Sani- tation	Day of rest	
Groceries.....	101	3	.....	79	*185
Confectionery.....	14	25	.....	64	103
Fruits and vegetables.....	57	.....	.....	7	64
Meats.....	49	9	1	.....	59
Dry goods.....	5	25	.....	11	41
Bakeries.....	22	13	.....	6	41
Women's wearing apparel.....	3	20	.....	9	†33
Men's clothing and furnishings.....	3	2	.....	27	32
Delicatessen.....	7	.....	.....	25	32
Laundries.....	22	.....	.....	.....	22
Flowers.....	4	.....	.....	17	21
Cigars.....	1	.....	1	16	18
Shoes.....	4	2	.....	8	14
Dairy products.....	9	.....	.....	2	11
Shoe polishing establishments.....	9	.....	.....	1	10
Places of amusement.....	8	.....	.....	.....	8
Three, nine and nineteen-cent stores.....	1	5	.....	1	7
Five and ten cent stores.....	4	3	.....	.....	7
Barber shops.....	7	.....	.....	.....	7
Department stores.....	3	3	.....	.....	6
Bowling alleys.....	5	.....	.....	.....	5
Wines and liquors.....	4	.....	.....	.....	4
Hardware.....	4	.....	.....	.....	4
Hats.....	.....	1	.....	3	4
Tea and coffee.....	3	.....	.....	.....	3
Drugs.....	3	.....	.....	.....	3
Dyeing and cleaning.....	3	.....	.....	.....	3
House furnishings.....	2	1	.....	.....	3
Notions and novelties.....	.....	1	.....	1	2
Tailor.....	2	.....	.....	.....	2
Automobiles.....	.....	.....	.....	2	2
Postal cards.....	.....	1	.....	1	2
Fish.....	.....	.....	.....	2	2
Music.....	1	.....	.....	1	2
Newspaper distributing.....	1	.....	.....	.....	1
Window glass.....	1	.....	.....	.....	1
Photographer.....	1	.....	.....	.....	1
Jewelry.....	1	.....	.....	.....	1
Children's wear.....	1	.....	.....	.....	1
Delivery.....	1	.....	.....	.....	1
Macaroni.....	1	.....	.....	.....	1
Furniture.....	1	.....	.....	.....	1
Five, ten and twenty-five cent store.....	1	.....	.....	.....	1
Wholesale stationery.....	1	.....	.....	.....	1
Bicycles.....	1	.....	.....	.....	1
Trimmings.....	.....	.....	.....	1	1
Raincoats.....	.....	.....	.....	1	1
Periodicals.....	.....	.....	.....	1	1
Leather findings.....	.....	.....	.....	1	1
Orange juice.....	.....	.....	.....	1	1
Hairdressing establishments.....	.....	1	.....	.....	1
Paints, etc.....	.....	.....	.....	.....	†1
Total.....	371	115	2	288	†780

* Includes two cases for interference with inspector.

† Includes one case for interference with inspector.

‡ Includes four cases for interference with inspector.

COMPLAINTS					
SUBJECT	Sustained	Not sustained	Total	Thereof anonymous	
II. SANITATION					
Toilet facilities:					
Water closets.....	38	29	67	25	
Wash rooms.....	4	1	5	.....
Dressing rooms.....	1	.....	1	.....
Cleanliness or repair of workrooms, halls, etc.....	13	10	23	12	
Ventilation.....	3	4	7	4	
Meals.....	4	3	7	5	
CHILDREN					
Under 14 years of age.....	42	73	115	59	
From 14 to 16 years of age:					
Without certificates.....	28	54	82	29	
Hours.....	46	81	127	77	
WOMEN AND MALE MINORS					
Hours.....	141	218	359	264	
Employment of women in basement.....	1	.....	1	.....
Seats for women.....	2	1	3	.....
MISCELLANEOUS					
Payment of wages.....	3	.....	3	.....
Day of rest.....	208	159	367	278	
<hr/>					
Total {	1915.....	534	633	1,167	753
	1914.....	447	466	913	556
	1913.....	145	108	253	97
	1912.....	95	140	235	77
	1911.....	122	100	222	81
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(5) REPORT OF DIVISION OF INDUSTRIAL HYGIENE

(A) REPORT OF THE DIRECTOR

To the First Deputy Commissioner:

I herewith submit my report as Director of the Division of Industrial Hygiene for the year ending September 30, 1915. The reports of the chief medical inspector, the chemical engineer, the fire prevention engineer of the second district, and the tunnel inspectors, are attached and submitted as a part of the report.

At this date, no report has been received from the mechanical engineer or the fire prevention engineer of the first district.

Organization

By order of the Commissioner of Labor, on October 1, 1914, the civil engineer was relieved from the supervision of the Director, and placed in charge of a newly created division.

On October 1, 1914, Mr. William T. Doyle was appointed mechanical engineer. On November 1, 1914, Dr. Rosalie Bell was appointed medical inspector. During the year, Edward W. Hines, special investigator assigned to railroad work, resigned. On September 30, 1915, Robert N. Wood, special investigator, died. He had been assigned to investigation of the conditions affecting the health of colored workers. Mr. Wood was especially well qualified to conduct an investigation of this nature, and his work is deserving of commendation.

The personnel of the Division consisted of chief medical inspector, acting as Director, chemical engineer, mechanical engineer, two fire prevention engineers, and secretary. Attached to the Division were the following: the Medical Section consisting of two male medical inspectors, one female medical inspector, and one factory inspector acting as medical inspector; two factory inspectors, six special investigators, two tunnel inspectors and one confidential agent.

Assignment

In order to facilitate routine work, the state was divided into two districts, the first comprising Greater New York, Long Island, and the counties on both sides of the lower Hudson. The second district comprised all other counties.

Fire Prevention Engineer Gillespie was assigned to the first district, and Fire Prevention Engineer Quigley to the second. Dr. Roos was given charge of medical inspection work in the first district, and Dr. Lanahan in the second. A special investigator was assigned to the chemical engineer, mechanical engineer, and the fire prevention engineer of the first district. Special Investigator Quirk was assigned to railroad inspection work in the first district and Special Investigator Hines in the second.

Office

In May, 1915, the main office of the Division was moved to Albany, the secretary and records being there permanently, and a sub-office maintained in New York City, the mechanical engineer, chemical engineer and fire prevention engineer being located there. With the reorganization of the Department, and the establishing of the main office of the Industrial Commission in New York City, it is apparent that the office of the Division should also be in New York City. The greater part of the personnel is situated in the first district, as are also the administrative bureaus of the Department. Time is lost, and expenses are incurred through sending reports, and traveling, to and from the Albany office. I would recommend that the office of the Division be located in New York City.

Exhibit

With the assistance of the members of the Division, an exhibit on industrial hygiene was prepared for the exposition at San Francisco. The exhibit consisted of photographs showing modern methods for safeguarding the workers from dangerous or poisonous dust, fumes, gases and vapors; guarding of machinery; sanitary conveniences; lighting; ventilation and general sanitation, as well as protective devices to be worn. There was also a stand containing a large number of samples of dust from various industries, showing their analyses and their dangerous qualities.

Summary

A summarized report of the work of the attachés is as follows:

Surveys.....	938
Special inspections.....	3,677
Tunnel inspections.....	227
Tunnel observations.....	137
Caisson inspections.....	6
Caisson observations.....	3
Complaint investigations.....	116
Compliance visits.....	631
Miscellaneous matters.....	4,248
Adult physical examinations.....	2,288
Children's physical examinations.....	320

Activities of Investigators

When the explosives section of the law went into effect, six special investigators were assigned to the Bureau of Explosives, for the purpose of making a survey of powder magazines throughout the state. This work extended from June to September.

The investigation of the printing industry was continued.

With a view toward making a special investigation of the use of gas apparatus, and its effect upon the health of operators in the garment industry, an investigator thoroughly familiar with the trade was assigned to making preliminary visits to shops in this industry.

Upon request, investigators were assigned to work for the civil engineer's division, and for the factory inspection division, first district, from October, 1914, to January, 1915.

A special investigation as to the installation of exhaust systems in polishing rooms in New York City was assigned to Special Investigator Smith and Factory Inspector Farrell. The result of their inspections was especially gratifying, as follows:

Shops visited.....	658
Exhaust systems tested.....	192
Orders to reconstruct.....	22
Orders for systems.....	15
Prosecutions.....	4

The summary of the investigations indicates the effectiveness of the present sections of the law relating to grinding and polishing, and also the close application of the law by the inspection bureau.

Even a most efficient factory inspector may not be an expert on exhaust systems. The result of the visits is, in my opinion, sufficient evidence to warrant specially trained inspectors being assigned to special work relating to testing of exhaust systems.

Chemical Engineer

A large part of the chemical engineer's attention was devoted to installation of local exhaust systems (especially where the material was of a dangerous or poisonous nature) inquiry as to cause of explosions, and also photographic work. This field work limited his time for laboratory work and the special inspection of chemical plants.

The report of the chemical engineer demonstrates the necessity of laboratory procedure in connection with the enforcement of the labor laws and the great assistance rendered in solving the problems of proper compliance with orders issued by the various bureaus. In order to work effectively and economically, laboratory facilities should be provided in the upper part of the state. Rochester University has placed at our disposal its laboratory facilities for use by the division when necessary. This courtesy deserves the appreciative thanks of the Department. Provision should be made for permanent facilities.

Attention is called to the economy practiced in operating the laboratory, but, as has been noticed by the chemical engineer, to do proper work it is necessary to have apparatus. I would request that an appropriation be made for securing apparatus asked for. The photometer is especially necessary for use in studying the question of standards of lighting.

Fire Prevention Engineers

The work of the fire prevention engineer in New York City has been done principally for the Industrial Board and the Chief Factory Inspector of the district with relation to fire alarm installations and plans for fire escapes and exits. For assistance in routine matters, a special investigator was assigned to work under the fire prevention engineer.

In the second district, the work of the fire prevention engineer has been largely field work, necessitating personal visits to build-

ings upon request of the Commission and Chief Factory Inspector of the district, as well as special assignments from the Director with reference to fires or explosions.

In company with the chemical engineer, a special investigation was undertaken with reference to the use of benzine in dyeing and cleaning establishments.

Industrial conditions in the second district differ quite some from those in the first district. Congestion is not so great, and there are a large number of industries, especially chemical industries, which are not found in the first district. Regulations should be formulated not entirely upon city classification but rather with reference to the other attendant circumstances which may be found.

Mechanical Engineer

To the mechanical engineer were assigned the examination and approval of plans submitted for installation of exhaust systems. The law is not mandatory in requiring plans to be submitted. The submitting and approval of plans is of benefit both to the manufacturer and the state, as has been demonstrated during the special investigation of exhaust systems in polishing shops. It is economy to the manufacturer in that he secures expert advice before installation and secures an efficient system before there is any financial outlay. The state obtains records of statistical value and safeguards the health of the workers through proper installations.

Many of the orders issued to reconstruct systems could have been obviated had plans been filed with the Department before installation.

Under the supervision of the mechanical engineer, machinery accidents reported to the Department were investigated, and proper safeguards recommended.

The examination and approval of safety appliances on elevators and elevator gates were referred to the mechanical engineer. Most of the appliances were of the electrical type.

During the past few years, electricity as a motive power has gradually replaced steam and gas. In the use of electricity, there are the dangers of accident and fire. A large part of the time of the mechanical engineer has been devoted to questions involv-

ing the use of electricity, thereby limiting the time applicable to questions intimately related to machinery hazards and safeguards.

In my opinion, the questions and problems presented to the Department, wherein electricity is a factor, should be referred to an engineer devoting his time entirely to this subject. The number of such references to the Department warrants the creating of the position of electrical engineer. In the British factory inspection service such a position has existed for a number of years. I would respectfully recommend an appropriation for, and the appointment of, an electrical engineer.

Railroad Survey

Owing to the large territory covered, and the number of roads involved, inspection with reference to sections 6 and 7 of the Labor Law was confined principally to electric lines, except upon complaint.

The work being entirely new, it became necessary to complete the preliminary survey undertaken the previous year. The result of the survey showed violations in almost every case. Many of them were technical, due to misinterpretation of the law, and after conference with the operating heads the schedules were changed to comply with the law.

In the case of the Interboro Rapid Transit, a question of application of the law as to employees in the draughting division was referred to counsel, and an agreement made to take it to the Supreme Court. In the second district, the application of the law with reference to lines operating outside of cities of the first class was questioned and the matter was referred to counsel.

The inspectors showed that the intent of section 6 is not carried out with swing runs. Motormen and conductors may be employed with very little time for themselves, and yet the law be complied with.

Compressed Air Work

The work of the tunnel inspectors is confined principally to New York City. During the year, work requiring the use of compressed air was very light, but with the beginning of new subway routes, it will undoubtedly be quite extensive during the coming year.

The following up of accident reports is important. Delay in the reporting of accidents is a step towards increase in number. I would recommend that the tunnel inspectors be provided with copies of each accident report within forty-eight hours after occurrence of the accident.

As a result of personal visits to the tunnels, and conferences of contractors and the tunnel inspectors, my opinion is that the law does not fully cover modern subway construction. I would respectfully recommend that a conference be held for the purpose of revising the rules and regulations applicable to tunnel work.

With a view toward studying compressed air illness, Tunnel Inspector Werner has begun a study of the relation of humidity and ventilation to compressed air illness, assisted by Medical Inspector Roos.

Electricity now plays a large part in tunnel work, and with the high voltage used, there is an increased danger. Tunnel Inspector Steers has been assigned to make a special investigation along this line, and has prepared a pamphlet on the dangers of electricity in tunnel work.

Conferences

During the year, the Department was represented and papers were presented at meetings of the National Association of Governmental Officials, American Public Health Association, National Association of Fire Engineers, at the Conference on Charities, and the Safety Conference of the Pennsylvania State Department of Labor and Industry.

The campaign of education by means of illustrated lectures and talks before civic associations and medical schools was continued. This is an important part of the work of the Division, and I would respectfully recommend an appropriation for educational work.

In conclusion, I desire to commend the attachés of the Division for their work.

C. T. GRAHAM-ROGERS,
Director.

(B) REPORT OF CHIEF MEDICAL INSPECTOR

To the First Deputy Commissioner:

I herewith submit my report as Chief Medical Inspector in charge of the section of Medical Inspection for the year ending September 30, 1915.

Owing to a large part of my time being spent in connection with administrative affairs as Director of the Division of Industrial Hygiene, it was impossible to give as much personal attention to medical inspection alone as I would have desired.

The personnel of the Section includes Medical Inspectors Doctors Lester L. Roos, Rosalie Bell, and Joseph Lanahan, and Dr. Nathan Schwartz, Factory Inspector, acting as Medical Inspector.

In order to facilitate routine work, the state was divided into two districts, the first comprising that portion south and east of Albany, the second district, the other portions of the state; also the following assignments were made: Dr. Roos, in charge of the First District, attached to the New York City office; Dr. Lanahan, in charge of the Second District, attached to the Albany office; Dr. Bell, assigned to special investigation of women in the industries; Dr. Schwartz, assigned to medical inspection and physical examination of workers in connection with visits of chemical, mechanical and fire prevention engineers. Drs. Bell and Schwartz were attached to the New York City office.

In addition to the visits of the medical inspectors, I personally visited a large number of factories, also tunnels and other places, to hold conferences in matters upon appeals, also upon request from manufacturers for advice or instruction in matters of industrial hygiene. These visits served to increase the spirit of co-operation between employees, employers and the Department of Labor.

The work of medical inspection is closely associated with the work of the chemical engineer. Many of the references to the Division of Industrial Hygiene had as a basis the question of the effect of the process or materials upon the health of the worker. Therefore, during the latter part of the year, Dr. Schwartz was assigned to co-operate with the chemical engineer. By this arrangement, where harmful conditions, as well as impaired

health among the workers, were discovered, accurate, scientific data would be secured, and unbiased conclusions with proper recommendations submitted.

The chief duties of the medical inspectors are: (1) Investigation of industrial diseases reported by private physicians, hospital physicians and factories; (2) supervision of child labor in factories and mercantile establishments through (a) supervision of the issuance of employment certificates by local boards of health and health officers, and (b) physical examination of children employed in factories and mercantile establishments; (3) investigation of dangerous trades and physical examinations of workers therein employed to determine the effect upon the health of the workers; (4) investigations of complaints made by factory inspectors and others relative to the unhygienic conditions existing in factories and mercantile establishments; and (5) written and detailed reports of all investigations made and recommendations whereby the unhygienic or dangerous conditions can be corrected or eliminated.

To properly investigate industrial diseases and poisonings it is absolutely necessary to employ the services of those who are familiar with factory conditions, possess a knowledge of industrial processes, and in addition have made a special study of industrial diseases and have had some years experience in general practice. Such inspectors are able to determine whether or not the pathological conditions found are the result of industrial conditions, such as exposure to irritating or poisonous fumes and gases, handling of poisonous or corrosive substances, inhalation of vitiated or impure air, extremes of humidity or temperature; or of conditions which may be already present in the worker, such as tuberculosis, syphilis, arterial or cardiac disease, nephritis, alcoholism.

Take lead poisoning, for example. The inspector must be able to differentiate the paralysis of lead poisoning from that of alcoholic neuritis or poliomyelitis, the cachexia from that of tuberculosis, nephritis or carcinoma, the blue line on the gums from the ordinary congestion secondary to gingivitis and pyorrhoea alveolaris. This naturally necessitates a knowledge of such conditions gained only by clinical experience.

While undoubtedly these investigations cannot be intelligently conducted save by those who are familiar with factory conditions, and have had years of experience in medical work, and made a particular study of industrial diseases, yet to insure satisfactory results and to make intelligent and practical recommendations, it is advisable to obtain the assistance of those who have had experience in factories, and in addition are skilled in chemistry, physics and mechanics. This necessitates the co-operation of chemical, mechanical and civil engineers, whose talents have been developed by years of practical experience, and who are able to make valuable suggestions regarding systems of ventilation, safeguarding of machinery, and devise various protective apparatus for the safety of the workers.

These devices and various apparatus are designed in a laboratory specially equipped for the purpose. Here also are made numerous chemical tests of dust and wall and floor scrapings obtained from various factories to determine the presence of different poisons, such as lead, arsenic, etc., which may be injurious to the health of the workers. Various products are analyzed to determine whether or not they contain substances which may be injurious. Specimens of urine, obtained from workers whose appearance suggests lead poisoning, are analyzed to determine the presence of lead. Microscopic examinations of blood obtained from these same workers are also made to determine the stippling of the red cells, which, when considered with other findings, give an absolute diagnosis of lead poisoning.

When both clinical and laboratory observations enable the inspector to make a positive diagnosis, and the fact is also established that the worker developed such a condition in the factory, a written or detailed report is made stating the above facts, including recommendations whereby these conditions can be corrected.

While the average factory inspector is undoubtedly well trained and efficient and able to recognize faulty conditions, and violations of the labor laws found in the factories, he has no knowledge whatever of the physical condition of the workers and cannot possibly recognize pathological conditions when he sees them. His duties are chiefly the enforcement of the labor laws regarding the hours of labor, prohibition of certain employments,

safeguarding of machinery, fire protection, etc. But his duties are doubly valuable when co-operating with those who are able to recognize the effects of such violations and make recommendations whereby they can be corrected.

Supervision of Child Labor in Factories

To properly supervise the issuance of employment certificates, it is necessary to know just what conditions are required for the issuance of same, namely, suitable evidence that the applicant is at least fourteen years of age, has sufficient education and is in sound physical condition. The last condition can be determined only by a doctor of medicine who can easily recognize a pathological condition when present, and will therefore refuse a certificate upon that ground.

The state demands that all children before obtaining employment shall be of suitable age, in possession of adequate education and in good physical condition. By regulating their hours of labor; prohibiting their employment in certain trades, occupations and industries detrimental to health or morals, and by frequent inspections and physical examinations by the medical inspectors, the state endeavors to insure and maintain their good health, morals, comfort and well-being. Physical examinations of children can therefore be performed by medical inspectors alone, who, as physicians, are familiar with pathological conditions and, having a knowledge of factory conditions in addition, can determine whether such pathological lesions are the result of the occupation wherein the child is engaged.

Under the provisions of sections 75 and 166, preliminary visits were made to health officers with a view toward standardizing the work of issuing employment certificates. To visit each health officer separately would prove an enormous task; therefore, the co-operation of the State Department of Health was sought, so that when conferences of health officers were held by the sanitary supervisors, a medical inspector could be present; so far no such conferences have been held.

The results of visits made to health officers showed the necessity for proper supervision, and warranted the compilation of standard instructions. There has been prepared by the medical

section, a pamphlet of instructions to health officers on the proper issuance of employment certificates.

Many of the health officers visited were found to receive a very small remuneration in proportion to the amount of work required of them. Proper remuneration is a great incentive toward securing accurate records, and I would recommend legislation toward granting a fee to health officers issuing employment certificates.

Through conferences a hearty spirit of co-operation between local health officers and the Labor Department has been secured.

In New York City all applicants for employment certificates apparently over sixteen years of age were referred by the Health Department to the Labor Department for attention. To properly decide these cases, a physical examination was often necessary, and much of the medical inspectors' time was devoted to the sub-office in New York City in connection with this work. In my opinion, section 71 of the Labor Law clearly places this entire matter in the hands of the local health officers, and after several conferences, the New York City Health Department agreed to handle the entire matter, beginning October 1st, 1915. By this arrangement the inspectors as well as the clerical force in New York City will be enabled to devote more time to strictly departmental work.

The number of children examined in the factories was few, owing to the fact that a routine method for following this phase was just being perfected. A number of industries were visited, where as medical inspector I had personally found many children and the last statistics had shown children. In the majority of places visited, few or none were found, and in the routine visits of the medical inspectors but few were found. The following routine has been adopted: Immediately after the factory inspection card is examined by the Bureau of Statistics, a card containing the firm's name and the number of children employed is forwarded at once to the medical section, and referred to the medical inspector of the district for attention. This routine has only been effective the last few weeks, so that we may expect greater results with a large saving of time for the ensuing year.

A large number of canneries were personally visited during the summer and Dr. Bell, during the course of her investigation,

paid special attention to children. But few places were found not complying with the law. These were very small canneries in remote parts of the state.

Occupational Diseases

The investigation of occupational diseases, and recommendations for prevention, cure or remedy, are essentially the duty of a physician and properly belong to medical inspection, and the following up of occupational diseases has been referred to, and is carried on by the Section of Medical Inspection.

A large part of the time of the medical inspectors has been given to this work, and the results have fully warranted the time spent in this service. A number of manufacturers have requested conferences with the medical inspectors, and plant physicians have been installed. Physicians and hospitals were visited, and the purpose of the law explained, thus securing effective co-operation. A number of hospitals in Greater New York availed themselves of the Department's offer and conferred with the medical inspectors upon doubtful cases.

Special attention was given to lead poisoning, and the Department leaflet on lead poisoning was widely distributed. A number of industrial poisonings not required to be reported were received, and have opened up new fields for investigations.

When found necessary, orders were issued for providing safeguards, and in many instances, compliance was secured at once, without the issuance of a formal written order.

The results of the visits of the medical inspectors have demonstrated the fact that medical inspection of factories is essential to the proper enforcement of labor laws, also that industries wherein lead is manufactured or used, as well as chemical industries, should have attending physicians. I would recommend to the Industrial Commission the enactment of such a regulation.

Investigations on the following subjects were undertaken by the Section of Medical Inspection:

Printing. This was supplemental to an investigation being carried on by Special Investigator McArdle.

Mattress Making. A number of complaints relating to violations of section 392a of the General Business Law were referred

to the Section for attention. A special investigation was undertaken by Dr. Roos, and new legislation recommended.

Anthrax. The virulent nature of this infection and large number of cases reported warranted the assignment of Dr. Lanahan to make a special study of this disease; the investigation is not as yet completed.

Dyers and Cleaners. Owing to the use of benzine and naphtha, and its known toxic properties, a special investigation of the effect upon workers in this industry was made in connection with the chemical engineer; also investigations as to the dangers of explosions in the same industry.

Use of Briquettes as Fuel. Upon request of the locomotive firemen's organization, with the co-operation of the Erie Railroad, Dr. Roos and Mr. Vogt made an exhaustive study of the effect upon the firemen of the use of briquettes, a form of coal made with coal dust. This was an exceptional investigation, in that it required observation on a moving locomotive, but is of value in that briquettes are also used for stationary boilers, and the findings would be the same in both cases. The findings of the Department were favorably accepted by the railroad company. This investigation further demonstrated the wide and valuable work of the medical inspectors.

Lead Poisoning. Independent of the routine investigation of reported cases of lead poisoning, an investigation was undertaken by Dr. Schwartz and Mr. Vogt into the dangers of lead poisoning in industries located in Greater New York, supplemental to the report of Dr. Graham-Rogers and Mr. Vogt, made in factories in other parts of the state in 1913. The findings have not been completed.

Canneries. A special investigation as to the effect of work in canneries upon women and children was undertaken by Dr. Bell in the season of 1915. The findings of Dr. Bell are of value in that many days at a time were spent in each plant, and an unbiased report by a woman physician has been submitted, which treats not only of the factory conditions, but the housing and family conditions as well.

Tobacco Industry. Under the direction of Dr. Lanahan preliminary steps have been taken for an investigation into the health of workers in this industry. The co-operation of the Albany Medical College, and a cigar firm, having a model factory, has been secured.

Steam Pressing Irons. Upon request a special investigation as to the use of steam pressing irons and its effect upon the workers was undertaken by Dr. Roos, and in connection Mr. Vogt conducted air test examinations.

Diamond Cutters. In view of reported cases of lead poisoning a special investigation was undertaken by Dr. Roos. The co-operation of both the cutters' union and shop owners was secured. After several conferences with the union, a set of regulations was drafted for reference to the Industrial Commission.

Attention was given to the installation of proper first aid kits in all factories visited, and instructions for the use of the kit were drafted and referred to the Industrial Commission for their action.

Bibliography

It is only within a recent period that any literature relative to occupational diseases or industrial hygiene could be found. Many inquiries are directed to the Department for information along these lines and have been referred to me. In the preparation of reports of special investigations, the endeavor has been made to include as complete a list of references to the subjects as possible. With the growth of the work, the importance of a bibliography became apparent, also the fact that such a publication would be of great benefit and help to those interested in the subject. The careful preparation of an extensive work with the limited force and facilities of the section would be well nigh impossible. After a conference with Mr. Wyer, Director of the State Library, the co-operation of the State Library School was secured. Dr. Lanahan was assigned to supervise the work and it is hoped the Department will be able to issue a valuable addition to the literature on industrial hygiene and occupational poisonings and disease.

Equipment

To undertake proper physical examinations, it is necessary to have a complete equipment sufficiently portable to be carried in the field. At present the medical inspectors do not possess such an equipment. I would respectfully recommend an appropriation for this purpose.

With the present number of medical inspectors, it is impossible to effectively carry out the provisions of section 76-a. Dr. Schwartz has done efficient and faithful service as an acting medical inspector. I would recommend an appropriation for his appointment as medical inspector.

To conclude the subject, medical inspection is inseparably connected with factory inspection. Any attempt to separate the two would be inadvisable, for medical inspection of factories implies a knowledge of medicine and in addition a knowledge of factory conditions which can only be acquired by practical experience.

C. T. GRAHAM-ROGERS,
Chief Medical Inspector.

(C) REPORT OF CHEMICAL ENGINEER

To the Director:

I beg to submit my report as chemical engineer of the Division of Industrial Hygiene for the year ending September 30, 1915.

A considerable portion of my time was occupied making special inspections and pursuing investigation of factories and mercantile establishments where dust, gases, fumes, heat and vapors escape into the workrooms in the various processes of manufacture, where by chemical means it was possible to determine whether the quantities existing were of sufficient amounts to be detrimental to the health of the employees working therein. When such proved to be the case, orders were issued and enforced.

A large number of samples of materials were submitted to me by supervising inspectors and medical inspectors for analysis, including wall dust, floor dust, water, oils, paints, dry colors, glazed paper, candy, tin foil, waxes, etc., which, when analyzed and the results obtained, in many cases assisted the physicians in diagnosing cases of industrial poisoning investigated by them.

A number of visits were made to factories in order to solve problems relative to the sanitary disposal of domestic waste, particularly where no sewer systems existed. Prior to the appointment of a mechanical engineer a number of problems were placed with me relative to the guarding of machinery and the operation of exhaust systems, but upon his appointment I was relieved of this work.

During the entire year I have set apart Tuesday afternoon of each week for consultation with inspectors for the benefit of those who may desire to interview me regarding the use of various substances used in manufacturing, relative to the necessity of issuing orders to proprietors of factories to provide hot water, individual towels, and suitable places where employees may take their meals. Without making personal visits to the places in question, advice was given enabling these inspectors to handle the problems personally.

The demand upon my time for field work involving questions of ventilation, sanitation and others of a scientific nature became so great that from time to time the assignment of special investigators became a necessity, which allowed a larger amount of work to be accomplished and granted me more time to devote to laboratory work and the preparation of pamphlets and reports.

The Laboratory

A considerable portion of routine work necessitated work to be performed in the laboratory, which though fairly well equipped for the present needs imposed upon it, lacks considerable apparatus for the carrying on of certain work to a successful conclusion. The cost of maintaining this laboratory for the year was less than \$4 per month, irrespective of gas used.

I urgently recommend the purchase of a small portable Macbeth photometer used for light measurements. This instrument is now on the market and can be purchased at a cost considerably less than apparatus of a similar nature used for such work made abroad.

I constructed a number of instruments during the year in the laboratory for analytical use, all of which have been employed in work undertaken in the field, it being the object to construct all

apparatus used in such analytical work to be portable, durable, and so arranged as to perform all work in the factory where quantitative analyses must be performed.

During the month of July, I again secured the permission of Professor Victor Chambers, Professor of Chemistry of Rochester University, to use one of the rooms in the chemical building of that institution to perform analytical work in connection with my investigation of the dyeing and cleaning industry; also to perform certain analytical determinations for factories located in the western part of the state. The saving of considerable time resulted, besides greater accuracy being maintained.

Photographs

At the request of various members of the Department, I photographed a number of buildings, guards, sanitary and unsanitary conditions, and devices used in dry cleaning establishments to prevent explosions, electrotypes of which have been made for the production of half tones for a bulletin entitled "Prevention of Fires and Explosions in the Dyeing and Cleaning Industry." The list of photographs added considerably to our present collection of sanitary and safety devices, which has proven useful to inspectors in the past and to those who visited the Department sub-office who desired better conditions in their establishments. The large number of pictures possessed by the Department proved to be of great use in constructing a photographic exhibit for the Panama Pacific Exposition, which I took considerable time to prepare, together with the preparation of an exhibit of dust samples obtained in various factories throughout the state.

Explosions

A number of explosions occurred during the year, investigations of which were conducted in each case, and the causes definitely determined, the major portion of which occurred in the dry cleaning industry. These explosions showed the necessity of undertaking an intensive study into this class of business, with the object of determining the hazards surrounding the workers employed therein. In this investigation I was assisted by Messrs. Nethercott and Caridi, Special Investigators, and Dr.

Schwartz, Acting Medical Inspector, who obtained under my direction, a large amount of data. A report and pamphlet is now ready for publication, through which the dangers in this particular trade are pointed out with suggestions toward fire and accident prevention.

Considerable time was given to other explosions which occurred in Syracuse, Port Ewen and New York City, with a view toward tracing the cause of same. In every case I was afforded every courtesy and assistance by the proprietors to locate the cause. Suggestions were offered which in all cases were adopted to prevent recurrences in these factories.

I am engaged upon the investigation of refrigerating systems, the japanning industry and laundry industry, which I hope to complete as soon as possible and shall prepare pamphlets on each industry investigated.

Accidents

A number of accidents were investigated in and near New York City, in which serious damage was done. The accident in a hotel where an explosion of ammonia gas took place in a refrigerating system showed the necessity of an investigation of refrigerating systems and power plants in hotels, where our present law does not reach. This investigation is yet under way, a preliminary report having already been made.

Following is a recapitulation of the work which I have performed during the year:

Number of establishments visited:

In lead and arsenic investigations.....	42
In dry cleaning industry.....	96
In japanning industry.....	1
In industrial poisoning cases.....	2
In making complete sanitary surveys of buildings.....	2

Chemical Analyses:

Benzine vapors.....	1
Brass.....	2
Urine.....	4
Wall dust from factories.....	13
Dust fumes and gases in factories.....	22
Lead fumes in factories.....	15
Flowers (artificial).....	1
Candy.....	3
Tin foil for lead.....	3
Milk sugar, for lead.....	1
Sealing wax.....	1
Rubber.....	2

Chemical Analyses — (Continued):

Lead pipe.....	1
Pottery.....	1
Toy.....	1
Paint.....	3
Matches.....	1
Powders for lead.....	1
Dry colors.....	1
Other technical analyses in factories in lead, japanning and dry cleaning industry..	18

Analytical Determinations Relative to Ventilation of Basements of Mercantile Establishments in

Troy.....	2
Albany.....	2
Schenectady.....	4
Buffalo.....	1
New York.....	2
Syracuse.....	6

Analytical Determinations Relative to General Ventilation of Factories in

Albany.....	2
New York City.....	4

Explosions in

Syracuse.....	1
New York City.....	6

Miscellaneous Matters:

Photographs taken for departmental purposes.....	120
Accident investigations.....	2
Special investigations as to overcrowding workrooms.....	2
Special investigations relative to wearing of respirators.....	1
Mechanical engineering problem (elevators).....	1
Sanitary investigations relative to installations of water closets.....	2

JOHN H. VOGT,
Chemical Engineer.

(D) REPORT OF FIRE PREVENTION ENGINEER

To the Director:

In compliance with custom I herewith submit to you my report for the year ending September 30, 1915, giving you a statement of my activities during the year ending with the above date.

Early in year, in company with the chemical engineer and the fire prevention engineer in the first district, we made certain inspections of dry cleaning establishments in both the first and second districts relative to their danger from fire and explosion. The result of this investigation will be filed in a separate report in the very near future. This report will cover in detail not only the places in the larger cities, but also in dry cleaning establishments in smaller cities up-state.

My time has been occupied principally in making inspections of factories in the second district where orders have been placed to safeguard the employees from fire or panic hazard. This has kept me well occupied during the year. In my territory I have inspected, at the request of either the Industrial Commission, the Division of Industrial Hygiene, the Chief Factory Inspector or the Engineering Division not less than four hundred factories throughout the state. While in many of these inspections I have been met with opposition in carrying out the provisions of the law, I think the average manufacturer is taking more interest in these safeguards and the compensation laws are working a change for the better. I find in many small factories that it is physically impossible to make changes that meet the letter of the law. In these cases I have tried to devise plans whereby the spirit of the law might be met and at least a fairly safe condition enforced.

In many buildings in the matter of horizontal exits there is serious objection to having a fire door on both sides of the horizontal opening as the average owner of a building is opposed to spending money where he thinks it unnecessary. He argues from the standpoint that one door with a fusible link in the center of the opening will clearly answer the purpose and meet the spirit of the law. In many cases I am prone to agree with this contention, especially in buildings where the material is non-inflammable.

The matter of fire alarm telegraph systems in factories is being somewhat pushed to the front and justly so. In any factory where any great number of people are employed, I think there should be a fire alarm telegraph system to not only warn the people in case of fire but to be used in connection with fire drills. A safe and up-to-date fire drill in the average factory is one of the greatest factors of safety from panic that I can conceive. These frequent drills take the scare from the average employee so that he does not know whether it is a fire or a drill. In many of the smaller plants the fire alarm system need not be an elaborate one but it should be installed in a safe and reliable manner and under reliable supervision. The more economical we can get these plants, consistent with reliability, the easier it is to induce the manufacturer to install them.

At the direction of the Industrial Commission, I attended the convention of the state fire chiefs at Peekskill in June where matters pertaining to fire protection were ably discussed by various fire chiefs throughout the state who are alive to the fire hazard. In the latter part of August and forepart of September, at the direction of the Industrial Commission, I attended the convention of the International Association of Fire Engineers at Cincinnati. This association is made up of fire chiefs throughout the world. Some of the most able men in fire protection, fire equipment and fire extinguishment attend this convention. Valuable papers were read and discussed by men who thoroughly understand the question involved and much valuable information was gleaned from these discussions. Representatives of the Underwriters' Laboratories of Chicago were in attendance and gave us valuable information, together with stereopticon views of various appliances used for safeguarding life and limb in factories and other structures throughout the country.

It is clearly evident that the propagation of "Safety First" in fire protection throughout the 15,000 factories in my district, where over 500,000 people are employed, is bearing fruit and that a few years will see a vast improvement in the factories of this state.

JOHN P. QUIGLEY,
Fire Prevention Engineer.

(E) REPORT OF TUNNEL INSPECTORS

To the Director:

Herewith is submitted the report of the tunnel inspectors for the fiscal year ending September 30th, 1915. The work was divided into two districts, northern and southern, with a dividing line at Fourteenth street, Manhattan, since most of the work was being done in New York City. The inspectors alternated in each district every three months.

The work inspected consisted of "cut and cover" subway work, hard rock tunnels and subaqueous tunnels working under compressed air. Air pressures were light. In all, fifty-eight contracts were regularly inspected during the year, employing a total

average of 16,830 men. The distribution is shown on the accompanying tabulations, in which the work is divided into three general groups: New York City subway systems, Catskill Aqueduct tunnels, and miscellaneous work.

By a ruling of the Industrial Commission, contractors no longer report accidents to the Bureau of Inspection, but to the Bureau of Workmen's Compensation. This will eliminate one very desirable feature of our work. By special arrangement heretofore with the Bureau of Statistics, monthly reports of accidents received from contractors on tunnel work, were tabulated under the various separate contracts and divided into causes, and such tabulations were a direct aid and the only systematic guide for the accident prevention work which is a salient feature of the inspection of heavy construction work.

During the year there occurred, according to our information, 35 fatalities among workers, divided as follows: Four on the surface but indirectly connected with subway or tunnel work; 1 in a caisson, but after air pressure had been withdrawn and over which this Department has no jurisdiction at that stage of construction; 16 on "cut and cover" subway work; and 14 in connection with tunnel work.

The causes of the fatalities were: Falls, 7; haulage and hoisting, 7; falling objects, not dropped, 17; falling objects handled by injured, 2; electric shock, 1.

Last year the report to the Department of Labor showed 44 fatalities. It appears, therefore, that the past year saw considerably fewer fatalities than the year before, although, according to our information, more men were employed.

During the year the inspections totaled 197, observations 126, and compliance visits 73. The inspectors made special investigations, some not completed as yet, into various features of heavy construction work, such as safety in the use of electricity in tunnels and underground workings, safety in hoisting and haulage in this class of work, and investigations into the possible mitigation of compressed air illness.

Those suggestions made in various preceding annual reports relative to changes in the law, need not be repeated in this report. Those changes are desired more and more, but suggesting them

in an annual report does not seem to bear much fruit. They will undoubtedly be taken up in a different manner during the coming year.

In the new year, subaqueous tunnel work, with its ensuing high pressure compressed air work, will be reaching its maximum, giving the Department ample opportunities for the study of compressed air illness and giving the new law of hours of labor under air pressures with its accompanying legal rates of decompression, its first test.

GUSTAV WERNER,
PHILIP J. STEERS,
Tunnel Inspectors.

INSPECTIONS OF TUNNELS AND CAISSONS IN 1915

LOCATION OF WORK	Number of Employees	NUMBER OF —		
		Inspec- tions	Observa- tions	Com- pliance visits
New York City Subways:				
Broadway and Lexington Avenue.....	6,575	62	39	21
Seventh Avenue.....	3,300	38	6	3
William and Clark Streets.....	1,370	11	8	7
Whitehall and Montague Streets.....	920	14	8	10
Flatbush Avenue and Eastern Parkway.....	1,000	10	16	4
Fourth Avenue.....	500	7	8	2
Belmont Tunnel.....	50	1	3	3
Forty-second Street Diagonal.....	800	2	2	.....
Fifty-ninth Street.....	250	5	4	4
Canal Street.....	300	9	1	.....
Total.....	15,065	159	95	54
Catskill Aqueduct.....	935	14	14	2
Miscellaneous.....	830	24	17	17
Grand total.....	16,830	197	126	73

Part III

**REPORT OF THE BUREAU OF WORKMEN'S
COMPENSATION**

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(1) REPORT OF THE SECOND DEPUTY COMMISSIONER

(IN CHARGE OF BUREAU OF WORKMEN'S COMPENSATION)

To the Industrial Commission:

In compliance with the requirements of the Compensation Law and of the Labor Law, this report of the Bureau of Workmen's Compensation is made and submitted. It covers the period of the calendar year 1915 with tables that make it also a report for the last nine months of the fiscal year ending September 30, 1915.

The year has been eventful of change. At its beginning the Workmen's Compensation Commission, a separate state department, was charged with the administration of the Workmen's Compensation Law which became effective July 1, 1914. The Legislature radically amended said law, which amendments became effective April 1, and thereafter virtually two laws have been in operation; the first as affecting all cases of injury arising prior to April first, and the present law as affecting all cases after said date.

The Legislature also abolished the Workmen's Compensation Commission as a separate state department and merged its functions with those of the Department of Labor under a new Department of Labor to be administered by the State Industrial Commission; and that which was a department at the beginning of the year became a bureau of the new Department of Labor when the Industrial Commission Law became effective on June first.

Upon assuming office the Industrial Commission retained, with the exception of the changes hereinafter noted, the organization plan and personnel much as it found it, and energetically assumed at once a vigorous and sympathetic administration of the Workmen's Compensation Law.

The principal changes accomplished in the amendment of the law affected the method of making claims and of paying awards.

Under the first law all claims were made directly to the Commission which, after it had passed upon them, collected from the insurance carriers the awards as made and paid out said awards according to the provisions of the law. Under the amended law claims are first filed directly with employers with the right of employers and employees to reach an agreement with each other respecting the amount of awards to be paid. Only in the event of neglect or failure to reach such agreements may the claim thereafter be filed with the Commission as under the old law. In either agreement or direct claim cases employers have the right to make payments in advance of awards, and, if awards are subsequently made, to have such payments properly credited thereon.

If agreements are entered into, the Commission examines carefully such agreements and, if the terms thereof are strictly in accordance with law, approves same, which approvals constitute awards. In claims filed directly with the Commission, awards are made as they were made under the old law. In all cases when awards are made it is incumbent upon employers to pay the same directly.

It will be seen from the foregoing that so radical a change in the law necessitated sweeping changes in Bureau methods, forms, notices, division of work, etc. Indeed, the Bureau had to accommodate itself to what amounts to five different classes as follows: Cases arising under the first law; and under the new law — agreement cases with advance payments; agreement cases without advance payments; direct claim cases with advance payments, and direct claim cases without advance payments. However, by following the legislative proceedings and finally anticipating the legislation about to be enacted, forms and system were prepared in advance of the adoption of the amendments and the Bureau swerved and swept on without much loss of time; but as might have been expected at the outset, with a marked increase of labor. The new law with its changes required to be explained.

At Albany the Bureau's offices were removed into the new wing of the capitol, being consolidated with the other bureaus of the Labor Department there to the decided advantage of the work in hand.

The branch offices at No. 29 Broadway, in charge of Deputy Commissioner Patrick A. Whitney; at the corner of 148th street and Courtlandt avenue, The Bronx, in charge of Deputy Commissioner August Lauter; and at No. 13 Washington street, Poughkeepsie, in charge of Deputy Commissioner Edwin Storms, were abolished and the employment of said deputy commissioners determined as of the date June first. Later the branch office at No. 171 Madison avenue, New York, in charge of Deputy Commissioner Thomas J. Curtis, was removed to the principal branch office in New York City. These changes effected considerable savings in rents and salaries. The branch offices at Brooklyn, Buffalo, Rochester and Syracuse are still maintained. At Brooklyn, Deputy Commissioner David M. Stone, appointed July 16, succeeded Deputy Commissioner Thomas J. Drennan; at Albany, Deputy Commissioner William A. Abbott succeeded Deputy Commissioner Frank A. Tierney on November 15; at Syracuse, Deputy Commissioner Willard C. Richards is still in charge; at Rochester, Deputy Commissioner Cyrus W. Phillips was assigned in place of Deputy Commissioner Lester Fisher, who resigned May 31; at Buffalo, Deputy Commissioner James McLusky succeeded Deputy Commissioner George W. Batten on November 15. These positions have been made regular civil service positions through an examination held in the month of September.

It scarcely requires to be added that every deputy commissioner now in the Department is needed and that it will be unwise further to reduce the force. On the other hand, the selection of an additional deputy commissioner to conduct hearings at the principal branch office could well be justified. The deputy commissioner in charge is so burdened with managerial duties and reviews of cases upon written testimony that it is impossible for him to sit on calendars more than two days a week. However, the Industrial Commission itself, which formerly was compelled to give five days a week to the hearing of cases, is now able to dispose of claims before it by sitting on Mondays and Fridays, with an occasional day between. This is as it should be since the heavy general duties of the Industrial Commission require much attention.

Hearings are held on Wednesdays and Thursdays at Albany and every day at New York City with hearings in two parts on Mondays, Thursdays and Fridays. Calendars are now arranged for forenoon and afternoon sessions with corresponding notices and divided further as to days with respect to insurance carriers. A still further division may be noted, that on Mondays, Tuesdays and Thursdays are heard general cases; on Wednesdays, trial cases with numerous witnesses; on Fridays, lump sum and medical cases. This division refers to the work of the deputy commissioners, while the commissioners themselves on Mondays and Fridays, as aforesaid, hear the various classes of cases that go up to them.

Each of the deputy commissioners except Messrs. Abbott and Curtis are in charge of branch offices. Mr. Abbott is in charge of the principal office at Albany and Mr. Curtis is housed with the commissioners and the deputy commissioner in charge at the principal branch office in New York City.

The duties of the deputy commissioners are defined in section 65 of the law as follows:

Powers of individual commissioners and deputy commissioners.—Any investigation, inquiry or hearing which the commission is authorized to hold or undertake, may be held or taken by or before any commissioner or deputy commissioner, and the award, decision or order of a commissioner or deputy commissioner, when approved and confirmed by the commission and ordered filed in its office, shall be deemed to be the award, decision or order of the commission. Each commissioner and deputy shall, for the purposes of this chapter, have power to administer oaths, certify to official acts, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. The commission may authorize any deputy to conduct any such investigation, inquiry or hearing, in which case he shall have the power of a commissioner in respect thereof.

The work of the Bureau throughout the year has been steadily progressive along the lines of the original organization; and, at the end of the year, as will be noted in that part of the report under the heading "claims division," the number of pending cases had been reduced to nearly the possible minimum. Complaints are probably as few in number as they will ever be from a field so extensive, and the Bureau is apparently beyond justifiable criticism. The utmost diligence is exercised at all times to maintain this condition. The deputy commissioner in charge who is mak-

ing this report is not altogether satisfied with a certain number of cases which for one reason or another have grown too old. Great pressure is being exercised to dispose of all such cases. It seems, however, impossible to eliminate them altogether for certain difficulties and delays are not within the power of the Bureau to remedy or overcome.

The Bureau is now running within a \$500,000 annual appropriation. This is a self-imposed limit slowly reached as better organization became effective and includes a proportionate share of overhead expense, commissioners' salaries, etc. This is a saving of fully \$200,000 a year as compared with the cost of maintaining the Bureau at the outset. The merging of the Bureau with others under the Industrial Commission has tended to effect economies.

The winter of 1914-1915 saw an unusual amount of unemployment in marked contrast with the condition at the end of the current year. The Bureau is somewhat of a barometer marking the revival of industry through an increase of reports and claims filed. This increase, however, puts the Bureau to its highest endeavor and there is perhaps a degree of strain which may not be sustained if there is further increase in the number of claims.

The Bureau, as is well-known, has no leisure and drives as hard as does any private industry, but, be it said, not unwillingly; for there is generally a noble response to the humanitarian purposes of the statute. The constant appearance of claimants in distress makes so powerful an appeal to every employee from the lowest to the highest that the result is as beautiful as it is unusual.

The deputy commissioner in charge is about to recommend a final revision of system and forms which will accomplish even better organization. Evolution, adaptation, revision, is the recurrent order of organization. To-day no compensation bureau in America and no private insurance company accomplishes more work or discloses a lower expense ratio. It is remarkable, too, that the private insurance companies best organized to develop facts about cases are most often in agreement with the recommendations of the claims divisions as presented to the Commission on its daily calendars.

With respect to the daily hearings, they may be described as in reality minor claims courts where all embarrassing technicalities are waved aside and a straight drive is made towards truth and justice. These hearings have met with popular favor for each person interested has his day in court. They command the growing respect, too, of the legal profession itself, some of whose eminent members have been loud in their praise.

While it is true that under the law no hearing may be had as of right by any party interested except upon formal application for the same, yet the Commission by first considering all cases in public has been able not only to expedite its work by effecting easy reconciliation in cases of dispute or dissatisfaction but it has also been able thus quickly to disseminate correct information about the law. Each claimant, if he seems to require it, is explicitly advised as to his own case, and thus he becomes a radiating center of instruction to others. It is predicted that the number of claimants actually appearing will constantly diminish. The Commission owing to situations of distress has responded in the consideration of hundreds of cases out of order. This seemed to be an absolute duty but has entailed much extra work.

The daily average number of cases heard and disposed of is 140, with a record of something over 1,100 achieved once when there was an accumulation of easy cases.

It may be asked, "does the administration of the Workmen's Compensation Law properly adapt itself to the industrial commission plan?" The answer is yes. But how? The industrial commission idea as enacted in the law is based upon the correlation and co-ordination of administration of all state functions pertaining to industry and labor. Under it every workman and employer is bidden to participate in government wherever government touches him. Modern industry is of exceeding magnitude and complexity and so numerous are the necessary rules and regulations that they are not only through their very number difficult to become acquainted with but equally difficult to impose as from without. The Legislature, therefore, wisely faced the proposition from the opposite angle and asks interested parties to participate in framing rules and regulations and to go even further and

assist in putting them into effect. This arouses interest, creates favorable public sentiment, makes participants familiar with them and appeals to that peculiar trait of human nature which prefers to act upon its own motion rather than to respond to imposed duties.

The Workmen's Compensation Law touches industry and labor at every point and its purposes will be advanced and consummated much more quickly if it is understood in theory and in practice. This is all the more true because it should mark even in dollars and cents a real diminishment of the burdens upon industry on the one side, while on the other, relieving distress among the injured entirely beyond comparison with any system heretofore obtaining.

The practical administration of the Compensation Law under the industrial commission idea has already been begun. There is a common and unified supervision by the Commission; reports which formerly were made to the Labor Department and to the Compensation Commission are now made only to one of them; the same statistical bureau is able to take off the new experience of all bureaus; the same agent purchases all supplies; there are common post office and stock room facilities. And these are but the first throws of the shuttle which will weave all into one whole. The first act looking toward this is the assembling of several bureaus as separate units. The welding process cannot be accomplished at one stroke but will be a matter of months, even years. And with it all is accomplished a saving in money to the taxpayer.

CLAIMS DIVISION

This division is in charge of Mr. Daniel A. Golden. In a sense it is the vital part of the organization of the Bureau, for the law was enacted for the sole purpose of providing compensation for losses arising from industrial accidents.

This division receives all reports of injuries, claims for compensation, agreements and all testimony and reports of investigations with respect thereto. It examines all reports and claims and prepares the calendars for hearings with recommendations

for allowance or disallowance. It also receives and answers all correspondence in regard to claims.

In all cases sent to the Commission proofs are completed, analyses are made and specific recommendations are attached thereto. In the great majority of cases the Commission has but to make findings of facts consistent with such recommendations.

In a measure the labors of all divisions of the Bureau, except the state insurance fund are incidental and supplementary to the work of the claims division; and it handles claims against the state insurance fund in the same manner as claims against other carriers.

Justice demands that due praise be given for the meritorious work of this division. It is efficient and accurate and it evidences the highest devotion to duty, giving freely of overtime work and responding instantly to every demand made upon it by the Commission, claimants, employers and insurance carriers. Let the complexity of the law, the industrial magnitude of the state and the volume of work done attest its merit.

Reference is made to the first annual report of the Workmen's Compensation Commission for a review of the methods and work performed by this important division.

In the tables below will be found a summary of reports of injuries, claims made and disposed of, etc. The following explanation of terms preceding the tables should be noted:

- "C-1 No Claims" means first reports of injuries received from injured workman which clearly indicate that the disability is of less than two weeks duration and that no claim for disability award will be made. All such papers are filed in high division alphabetical indexes to be had quickly in connection with claims or inquiries if subsequently such may be made. In the event of no such demand, after six months they are stored away.
- "C-2 No Claims" means first reports of injuries received from employers in such cases.
- "C-1 Claims" means first reports of injuries received from injured workmen indicating the probability of a claim for compensation to follow. If a disability of ten days or longer is indicated, the reports are counted under this heading; for, while no compensation is paid for the first two weeks, such cases are likely to develop into claims.
- "C-2 Claims" means first reports of injuries received from employers in such cases.
- "C-3" means claims for compensation actually filed.
- "On calendar and disposed of" means that cases have been considered finally and awards made or denied and thus closed.
- "Pending" indicates the number of claims filed with the commission and not yet examined and prepared for the calendar. These comprise incomplete cases as well as those which are complete and not yet examined. (Note.—In the first table only "pending" includes about 3,300 cases examined and ready for the calendar.)

Injuries reported and claims filed complete from July 1, 1914, to December 31, 1914, comprising the full period from the time the law became effective until the beginning of the year covered by this report, were as follows:

C-1 No claims.....	15,299
C-2 No claims.....	89,363
C-1 Claims.....	27,917
C-2 Claims.....	23,569
C-3 Claims for compensation.....	19,742
On calendar and disposed of.....	12,619
Pending.....	7,123
Deaths reported.....	477
Claims filed.....	445
On calendar.....	325
Pending.....	120

Injuries reported and claims filed complete from January 1, 1915, to September 30, 1915, including old law and new law, were as follows:

	Old law	New law
C-1 No claims.....	23,960	18,447
C-2 No claims.....	47,061	87,483
C-1 Claims.....	17,301	14,781
C-2 Claims.....	15,482	28,206
C-3 Claims for compensation.....	17,822	5,940
On calendar and disposed of.....	24,746	4,700
Pending.....	199	1,240
C-103 Agreements.....		8,458
On calendar and disposed of.....		7,481
Pending.....		977
Deaths reported.....	781	765
Claims filed.....	667	547
On calendar.....	667	500
Pending.....		47

Injuries reported and claims filed complete from January 1, 1915, to December 31, 1915, including old law and new law and totals, were as follows:

	Old law	New law	Totals
C-1 No claims.....	23,976	26,417	50,393
C-2 No claims.....	47,073	130,273	177,346
C-1 Claims.....	17,314	19,539	36,853
C-2 Claims.....	15,510	41,709	57,219
C-3 Claims for compensation.....	17,878	7,134	25,012
On calendar and disposed of.....	24,941	6,162	31,103
Pending.....	60	972	
C-103 Agreements.....		16,608	
On calendar and disposed of.....		15,513	
Pending.....		1,095	
Deaths reported.....	314	765	1,079
Claims and agreements filed.....	282	547	829
On calendar.....	362	500	862
Pending.....		47	47

Injuries reported and claims filed complete from July 1, 1914, when the law became effective to December 31, 1915, and comprising old law and new law and totals, were as follows:

	Old law	New law	Totals
C-1 No claims.....	69,275	26,417	95,692
C-2 No claims.....	136,436	130,273	266,709
C-1 Claims.....	45,231	19,539	64,770
C-2 Claims.....	39,079	41,709	80,788
C-3 Claims for compensation.....	*37,620	7,134	44,754
On calendar and disposed of.....	37,560	6,162	43,722
Pending.....	60	972	1,032
C-103 Agreements.....		16,608	16,608
On calendar and disposed of.....		15,513	15,513
Pending.....		1,095	1,095
Deaths reported.....	781	765	1,546
Claims and agreements filed.....	667	547	1,214
On calendar.....	667	500	1,167
Pending.....		47	47

* The apparent discrepancy between 37,620, the number of claims filed as under the old law, and 29,665 the number of claims in which awards were made, may be explained by stating that when the law first became effective, many workmen in ignorance of its terms, filed claims for a disability of less than two weeks duration; and, unacquainted also with the hazardous groups, filed numerous claims for injuries sustained in employments over which the commission has no jurisdiction.

It will be noted that 1,546 deaths have been reported, whereas but 1,214 claims have been filed. This leaves 332 death cases specifically not accounted for. These are supposed to fall under the following classifications: Cases in which there are no dependents, cases involving common law liability and therefore affording remedies through the courts, cases without the jurisdiction of the commission or railroad cases in which jurisdiction is disputed, cases in which there are unknown foreign dependents, and, perhaps, some cases settled without claims being filed, even if in contravention of the law.

A comparison between the first law and the amended law may be made as regards the number of claims and agreements filed. Under the first law, with 29,665 cases covering the period of nine months, there were filed 3,296 claims per month. Under the amended law, which provides for claims and agreements, the commission has received 16,608 agreements and 7,134 claims, a total of 23,742. Inasmuch as a period of two weeks must elapse before a claim may be filed and ten days more is given within which to make an agreement, it is evident that the latter number cannot be taken as the full experience of the last nine months of the year under the amended law. It may be taken to reflect the experience of eight months instead. This shows the yield of claims and

agreements under the amended law to be 2,968 per month, which indicates 328 claims fewer per month or 3,936 fewer per year. It will require a statistical analysis to demonstrate what class of injuries do not result in claims being filed. It is supposable that they are minor claims in which employees receive advance payments and fail to file claims.

The table below, showing awards made under the Workmen's Compensation Law for the nine months from July 1, 1914, to March 31, 1915, including results to December 31, 1915, was prepared by the Bureau of Statistics and Information under the direction of Chief Statistician L. W. Hatch.

SUMMARY OF AWARDS MADE UNDER THE WORKMEN'S COMPENSATION LAW IN
TO DECEMBER

Kind of Award	Cases		Amount or Value of
	Number	Per cent of total	Amount
I. DEATH:	500	3.0	\$1,941,194 86
A. No dependents (funeral expenses of \$9,070.67 in 96 cases).....	96	.3	9,339 10
B. With dependents (including funeral expenses in 454 cases of \$44,120.19).....	11476	1.6	1,844,356 32
C. Pending (estimated at average death payment).....	27	.1	87,499 44
II. PERMANENT TOTAL DISABILITY:	14	0.0	104,651 72
A. Dismemberments: Loss of —			
Both hands.....	.....	.....	.....
Both arms.....	.....	.....	.....
Both feet.....	1	0.0	6,083 61
Both legs.....	.....	.....	.....
Both eyes.....	4	0.0	23,368 30
Any two of these.....	1	0.0	8,534 00
B. Other.....	8	0.0	66,675 81
III. PERMANENT PARTIAL DISABILITY:	3,058	7.0	1,070,833 42
A. Specified dismemberments: Loss of —			
Thumb.....	43	.3	34,738 24
First finger.....	173	.6	69,395 93
Second finger.....	100	.3	29,536 01
Third finger.....	54	.2	14,068 94
Fourth finger.....	75	.3	12,666 72
Thumb and one or more fingers.....	16	.1	15,881 33
Two or more fingers.....	120	.4	78,056 49
Phalange of thumb.....	149	.5	38,850 59
Phalange of first finger.....	296	1.0	56,829 78
Phalange of second finger.....	211	.7	27,386 69
Phalange of third finger.....	98	.3	11,956 63
Phalange of fourth finger.....	80	.3	5,935 10
Phalange of thumb and one or more fingers, or of two or more fingers.....	94	■	23,370 85
Thumb or fingers and phalange of thumb or fingers.....	77	.3	45,818 23
Great toe.....	14	0.0	5,707 38
Other toes.....	25	.1	2,754 81
Phalange of great toe.....	21	.1	2,274 21
Phalange of other toes.....	7	0.0	706 87
All or phalange of more than one toe.....	35	.1	17,237 15
Hand.....	65	.2	120,114 34
Arm.....	4435	.1	72,578 77
Foot.....	23	.1	60,394 23
Leg.....	14	0.0	33,082 59
Eye.....	222	.3	279,827 42
B. Partial dismemberments.....	8	0.0	6,346 28
C. Impairment of earning capacity:			
25% and under.....	1	0.0	1,238 46
Over 25% to 50%, inclusive.....	.....	.....	.....
Over 50% to 75%, inclusive.....	.....	.....	.....
Over 75%.....	.....	.....	.....
IV. TEMPORARY	26,161	88.9	1,109,570 22
Under 3 weeks.....	3,530	12.0	16,903 33
3 weeks or 4 weeks.....	5,779	19.6	66,301 19
4 weeks or 5 weeks.....	4,764	16.2	98,477 35
5 weeks or 6 weeks.....	2,904	9.9	96,255 55
6 weeks or 7 weeks.....	2,379	8.1	93,333 31
7 weeks or 8 weeks.....	1,344	4.6	66,489 70
8 weeks or 9 weeks.....	1,191	4.0	68,964 83
9 weeks or 10 weeks.....	674	2.3	45,451 91
10 weeks or 11 weeks.....	553	1.9	44,149 57
11 weeks or 12 weeks.....	384	1.3	34,527 15
12 weeks or 13 weeks.....	405	1.4	30,290 79
13 weeks or 26 weeks.....	1,689	5.7	252,230 82
26 weeks or.....	565	1.9	197,135 21

For footnotes see following pages.

THE NINE MONTHS FROM JULY 1, 1914, TO MARCH 31, 1915, INCLUDING RESULTS 31, 1915

PRESENT AWARDS	AWARDS MADE IN COMBINATION WITH AWARDS AS IN FIRST COLUMN (These amounts included in totals in fourth column)					
	TEMPORARY DISABILITY				INDETERMINATE DISABILITY (Lump Sum Settlements)	
	Total		Partial		Cases	Amount
	Cases	Amount	Cases	Amount		
41.9	13	\$2,136 58	.....	.....	.....	.....
.2	*2	268 43	.....	.....	.....	.....
39.8	11	1,868 15	.....	.....	.....	.....
1.9	.....	.....	.....	.....	.....	.....
2.8	.....	.....	.....	.....	.....	.....
.....
.....
.1	.....	.....	.....	.....	.....	.....
.....
.5	.....	.....	.....	.....	.....	.....
.2	.....	.....	.....	.....	.....	.....
1.5	.....	.....	.....	.....	.....	.....
23.1	348	17,317 58	7	\$215 97	10	\$2,863 32
.5	8	263 77	.....	.....	.....	.....
1.5	30	1,398 50	.....	.....	1	134 54
.6	33	1,554 01	+2	31 67	1	958 55
.3	20	756 42	.....	.....	2	683 24
.3	19	2,068 68	+1	2 66	1	207 72
.4	3	137 33	.....	.....	.....	.....
1.7	31	1,688 53	.....	.....	2	250 55
.9	9	207 79	.....	.....	.....	.....
1.2	35	1,149 49	1	110 40	.....	.....
.6	38	1,013 48	.....	.....	.....	.....
.3	24	783 21	+1	51 48	.....	.....
.1	10	271 66	.....	.....	.....	.....
.6	12	283 46	.....	.....	1	70 50
1.0	22	665 89	.....	.....	1	53 00
.1	5	733 18	.....	.....	.....	.....
.1	10	328 93	.....	.....	.....	.....
.1	2	50 48	.....	.....	.....	.....
0.0	5	162 69	+2	19 76	.....	.....
.4	14	1,156 33	.....	.....	.....	.....
2.6	1	80 78	.....	.....	.....	.....
1.6	4	601 53	.....	.....	1	496 22
1.3	3	478 40	.....	.....	.....	.....
1.8	1	628 18	.....	.....	.....	.....
6.0	8	716 41	.....	.....	.....	.....
.1	.....	.....	.....	.....	.....	.....
0.0	1	138 45	.....	.....	.....	.....
.....
.....
.....
24.0	.....	.....	211	11,393 71	1	150 00
.4	.....	.....	13	211 86	.....	.....
1.4	.....	.....	25	416 80	.....	.....
2.1	.....	.....	19	684 78	.....	.....
1.9	.....	.....	8	117 07	.....	.....
2.0	.....	.....	18	394 41	.....	.....
1.4	.....	.....	8	492 49	.....	.....
1.5	.....	.....	9	443 99	.....	.....
1.0	.....	.....	3	73 80	.....	.....
1.0	.....	.....	7	492 29	.....	.....
.7	.....	.....	7	289 75	.....	.....
.9	.....	.....	9	527 20	.....	.....
5.4	.....	.....	56	4,794 93	**1	150 00
4.8	.....	.....	29	2,449 34	.....	.....

SUMMARY OF AWARDS MADE UNDER THE WORKMEN'S COMPENSATION LAW IN
TO DECEMBER

KIND OF AWARD	CASES		AMOUNT OR VALUE OF
	Number	Per cent of total	Amount
V. TEMPORARY PARTIAL DISABILITY:	36	.1	\$718 50
25% and under.....	6	0.0	78 52
Over 25% to 50%, inclusive.....	24	.1	300 73
Over 50% to 75%, inclusive.....	6	0.0	339 25
Over 75%.....	.....	.....	.....
VI. INDETERMINATE:	579	2.0	402,039 63
Settled by lump sum.....	153	.5	205,776 67
Continuing on January 1.....	313	1.1	163,862 47
Other.....	113	.4	32,400 49
Grand total.....	29,447	100.0	\$4,629,108 35

* Includes \$143.50, loss of thumb. † In conjunction with total temporary disability award
‡ Includes six cases combined with total temporary disability award. ** Includes one case in con-
junction with partial temporary disability award. §§ Includes one case employer bankrupt, no
insurance; claimant settled for \$288. †† Includes five cases with estimated average death loss
of \$3,240.72.

THE NINE MONTHS FROM JULY 1, 1914, TO MARCH 31, 1915, INCLUDING RESULTS
31, 1915 — (Concluded)

PRESENT AWARDS	AWARDS MADE IN COMBINATION WITH AWARDS AS IN FIRST COLUMN (These amounts included in totals in fourth column)					
	TEMPORARY DISABILITY				INDETERMINATE DISABILITY (Lump Sum Settlements)	
	Total		Partial			
	Cases	Amount	Cases	Amount	Cases	Amount
0.0
0.0
0.0
0.0
.....
8.7
4.5
3.5
.7
100.0	361	\$19,454 16	†218	\$11,609 68	**11	\$3,013 32

The sixth classification "indeterminate" under the summary of awards requires a word of explanation. It represents those cases which in their early stages would fall under Classifications III or IV, and in a measure are assignable to either. They are such cases also as in the interest of justice admit of being concluded by lump sum payments.

CASES UNDER INVESTIGATION AND ON APPEAL NOT INCLUDED IN GENERAL TABLE.

	Under investi- gation	On appeal
Death.....		68
Permanent total disability.....		
Permanent partial disability.....	5	*36
Temporary total disability.....	23	†163
Temporary partial disability.....		
Kind of award unknown.....	16	22
Total.....	<u>44</u>	<u>189</u>

An analysis of the general table discloses the following facts:

Number of claims.....	29,680
Aggregate cost (exclusive of medical and inclusive, at average value of 44 cases under investigation and 189 cases on appeal).....	\$4,880,433 75
Average value of all awards (exclusive of medical).....	157 20
Death:	
Average value of death awards.....	3,240 72
Percentage of cost to whole cost.....	41.9
Percentage of number to whole number filed.....	2.03
Percentage of death claims without dependents to whole number of death claims.....	16.2
Percentage of death claims with alien dependents residing abroad.....	9.0
Permanent and Total Disability:	
Average value of permanent total disability awards (exclusive of medical)...	\$7,475 12
Percentage of cost to whole cost.....	2.3
Percentage of number to whole number filed.....	.047
Permanent Partial Disability:	
Average value of permanent partial disability awards (exclusive of medical)...	\$520 38
Percentage of cost to whole cost.....	23.1
Percentage of number to whole number filed.....	7.0
Temporary Total Disability:	
Average value of temporary total disability awards (exclusive of medical)....	\$42 41
Percentage of cost to whole cost.....	24.0
Percentage of number to whole number filed.....	88.9
Temporary Partial Disability:	
Average value of temporary partial disability awards (exclusive of medical)...	\$19 96
Percentage of cost to whole cost.....	.015
Percentage of number to whole number filed.....	.12

* Includes five combination cases of temporary total disability.

† Includes one combination case of temporary partial disability.

‡ Includes one combination case of temporary total and temporary partial disability.

Total cost of compensation (exclusive of medical) for a full year on above basis...	\$6,507,245 0
Add medical cost* at \$10.95 per reportable injury (state insurance fund average)	
for 225,000 injuries for the year (closest approximation).....	2,463,750 00
Whole cost.....	<u>8,970,995 00</u>

MEDICAL DIVISION

The medical division is in charge of Dr. Raphael Lewy. He is assisted by Dr. Samuel M. Hyman.

The growing value and importance of this division is evidenced by the volume of work done which is indicated in the following summary:

	1915	1914†	Total
Physical examinations of claimants.....	7,445	1,868	9,313
Re-examinations.....	587	233	820
	<u> </u>	<u> </u>	<u> </u>
Total.....	8,032	2,101	10,133
	<u> </u>	<u> </u>	<u> </u>
Opinions rendered on claim papers in disability cases without physical examination of claimants.....			8,104
Opinions rendered on claim papers in death cases.....			115
Opinions interpreting X-ray plates.....			21
			<u> </u>

CLASSIFICATION OF PHYSICAL EXAMINATIONS

	1915		1914	
	Exam- inations	Re-exam- inations	Exam- inations	Re-exam- inations
Fractures.....	2,179	226	358	84
Infections.....	1,292	87	493	53
Burns.....	90	2	31	3
Lacerations.....	676	34	175	10
Contusions.....	1,073	88	296	33
Amputations.....	761	35	222	7
Miscellaneous.....	1,374	115	293	33
	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Total.....	7,445	587	1,868	233
	<u> </u>	<u> </u>	<u> </u>	<u> </u>

* Medical cost is treated separately for two reasons — (1) it is not accurately known since the commission does not make medical awards; for, except in state fund cases, the employer pays directly; and, (2) every injury requires medical aid, while no compensation awards are paid for the first two weeks of disability.

† This covers the period from July 23, 1914, to December 31, 1914.

MONTHLY DETAIL OF PHYSICAL EXAMINATIONS IN 1915

	Exam- inations	Re-exam- inations
January and February.....	842	134
March.....	660	29
April.....	638	13
May.....	551	36
June.....	606	30
July.....	601	18
August.....	632	30
September.....	601	28
October.....	730	47
November.....	890	190
December.....	694	32
Total.....	7,445	587

Experience demonstrates the wisdom of maintaining an adequate medical staff. The tendency everywhere in compensation bureaus is to place more and more reliance on the opinions of a well organized and disinterested staff of physicians. Nor is it out of place to bear testimony to the splendid qualifications and devotion to duty of our own physicians. Their ability commands the respect of the profession at large and gives such weight to their opinions as to allay disputes and secure general acquiescence in the decisions of the Commission based thereon. Their duties comprise physical examinations of claimants and consultations with physicians in connection therewith, review of written medical testimony, and advisory duties to the Commission at hearings including examinations of medical witnesses.

Aside from the exceptional cases, which are relatively few, the principal points in all other cases are those pertaining to wages and nature and extent of disability. Manifestly, therefore, accurate medical testimony is invaluable. Every means should be taken to herald this fact to all persons affected by the Compensation Law. If injured employees are put into the hands of good physicians immediately after their injuries are sustained, many fruitful results for good will be accomplished thereby; they will receive proper treatment; effective cures will be hastened; insurance cost will be reduced; and claims for compensation will be more easily perfected. If the fact of accident is in dispute evidence of receiving medical treatment immediately thereafter for such injury as would likely arise out of the employment, goes far to establish a claim.

The Compensation Law has centered attention on industrial accidents and made possible the compiling of statistics and the undertaking of careful studies by professional men. Out of this is developing ability to suggest proper treatment and to judge more accurately probable length of disability. This tends to aid the Commission in determining period of award. There is, too, the recuperative period of disability between the time of discharge by the physician and the time the employee is able to return to work. The physicians of the bureau are invaluable aids in guiding the Commission in the determination of this period.

The future development of compensation insurance will probably call for an increase in the medical staff and even its participation in claim examination to the extent of reviewing all medical testimony which review is now limited to doubtful or disputed cases.

An indirect result of the activities of this division in connection with a knowledge of the causes and results of injuries revealed by statistical analyses will be to tend to convince employers of the economy to be gained in installing first-aid equipment and, where the size of the plant warrants it, plant hospitals; for these things will be made to appeal to thrift rather than to philanthropy. Millions of dollars may thus remain in the pockets of New York employers if they rise to the situation.

The Bureau experience indicates the need of more well-equipped hospitals to administer to injured employees' post-operative treatment. Thousands are now cripples, having missed the opportunity to have stiff joints made mobile, which is an effect modern surgery is able to produce.

The history of compensation insurance in all states attests the importance of the medical phase of the question. It is therefore desirable to obtain the co-operation of the best thought of the great profession. The condition desired is that they may remain untempted to lean either way from justice. Their testimony, if impartial, is invaluable; if not, troublesome.

Some restlessness is apparent on the question of fee bills and the right of the injured workman to select his own physician, which is yet undetermined. These conditions are beyond the power of the Commission to remedy. Many physicians do not

seem to understand that the Commission merely passes upon fee bills from the standpoint of reasonableness and cannot enforce collection. Only when the bill should be paid by the workman who has not taken the necessary steps to fix the responsibility upon his employer can the Commission take action to establish a lien against an unpaid award and to fix the manner of payment.

DIVISION OF THE CASHIER

This division is in charge of A. F. Pentz, cashier, with Matthew J. Howard, as assistant cashier.

At the beginning of the year when the first Compensation Law, unamended, was still effective, the duties of this division were to have custody of securities and cash deposited by self-insurers and other insurance carriers; to collect from employers and insurance carriers moneys for awards made, and to pay out the same to beneficiaries thereof; to do general accounting in connection with compensation matters; and to handle and account for moneys appropriated for the maintenance of the Workmen's Compensation Commission.

When, on April 1, 1915, the present Compensation Law, as amended, became effective, and, again, on June 1, when the Workmen's Compensation Commission was superseded by the State Industrial Commission and the Department itself became a bureau under said State Industrial Commission a marked change took place in this division. That part of the accounting pertaining to the greater new Department was separated to become another division answerable immediately to the secretary. This materially diminished the volume of business in the cashier's office.

Other changes took place. Under the new law, as amended, the Commission handles no money in payment of awards except moneys of the state insurance fund. Instead, employers pay directly. This also has lessened the work.

Later, according to the spirit of the new law, the Commission referred back to stock company insurance carriers for direct payment by them instalment payments of awards made under the first law. This again reduced the volume of work. But the cashier remains custodian of the securities deposited, and handles mon-

neys collected and disbursed on account of the state insurance fund. It will be seen, therefore, that the activities of this division are being merged into that of the state insurance fund.

To illustrate the volume of work done in this division, the following figures are given: During the year, 64,259 vouchers were made in payments of awards covering for stock and mutual companies, \$1,252,049.82, for state fund \$158,119.16, and for self insurers \$242,957.83 — and this notwithstanding the marked diminishment of labor owing to direct payments.

The par value of securities (municipal, state and government issues), which are deposited for the account of the self insurers to secure the payment of compensation awards, was \$3,524,225 as of September 30, 1915, and \$3,521,225, as of December 31st, 1915. The slight decrease in volume is due to the return of deposits to certain self insurers which had changed their plan of insurance. The custody of these bonds requires the payment of interest thereon as it falls due quarterly or semi-annually, and the mailing of the Commission's checks to the respective owners after an apportionment schedule is made up. These bonds are gradually being exchanged, with the consent of the owners, from coupon form to certificates registered in the name of the Commission. This eliminates the labor, expense and sometimes unavoidable delay in detaching coupons in such large numbers and varying issues.

The receipts of premiums for the state insurance fund for the period ending September 30th, furnished a gross total of \$700,137.13, and for the entire year the aggregate was \$906,106.12. There were 343 checks drawn, aggregating \$21,000.08, in refund of premiums.

In addition to the foregoing the cashier requisitions purchases and distributes postage stamps. The cashier also has other duties unrelated to the Compensation Bureau.

Reference is made to the tables in that part of this report which is under the heading State Insurance Fund for fuller information concerning cash and investments. Briefly, investments of a par value of \$730,000 for the year 1915, were made for the account of the state insurance fund, as recommended by Commissioner W. H. H. Rogers.

LEGAL DIVISION

The legal division for the year was in charge of Jeremiah F. Connor, his assistants being Robert H. Grimes and Theodore H. Ward.

The duties of this division are: To counsel the Commission; handle cases on appeal; reply to numerous inquiries that reach the Bureau by mail; take care of collections of awards made against employers in default of compliance with the law requiring them to secure compensation to their employees; to give opinions to commissioners, deputy commissioners and other employees of the Bureau concerning questions that arise as the day runs; to counsel with the Commission at hearings and participate in examination of witnesses.

The activities of this division, as of others, reflect the Bureau's general volume of work as is shown by the following recapitulation for the calendar year 1915:

Cases pending in the Supreme Court of the United States.....	3
Court of Appeals:	
Cases decided.....	9
Cases argued and not yet decided.....	6
Cases appealed and not yet argued.....	10
Appellate Division:	
Cases decided.....	102
Cases pending and not yet argued.....	185
Cases pending for opinion.....	36
Cases referred to counsel in which appeals have been withdrawn, opinions rendered, etc., and which are now closed.....	1,510
Number of letters answered giving opinions on the compensation law (an estimate) ..	3,500
Number of cases referred to counsel for collection of awards against employers having no insurance.....	913
Number of suits commenced to collect awards.....	820
Number of awards collected.....	661
Cash collected, including awards and penalties for non-insurance.....	\$13,937 00
Number of claims pending for collection of awards.....	252
Number of suits brought to recover penalty for not insuring.....	264
Number of employers compelled to protect employees engaged in hazardous business by compensation insurance.....	687
Number of cases referred in which employers have given up business or gone into bankruptcy, etc.....	226

It will be remembered that the law became effective July 1, 1914. Between that date and the beginning of the calendar year covered by this report, the division handled 79 cases on appeal to the Appellate Division of the Supreme Court; 95 complaints against employers who had failed to provide compensation insurance; 227 cases in which awards were made against employers who had no insurance and which were referred to the division for

collection; 49 cases against railroad companies, involving difficult and undetermined questions of the law of interstate commerce referred for opinion; and, 207 miscellaneous claims for compensation, referred for opinion.

The chief counsel was present at every term of the Court of Appeals and Appellate Division. In fully three-fourths of all cases that went up to these two courts he prepared either original briefs at the request of the court or briefs supplemental to those filed by the attorney general of the state. He also reviewed all cases on appeal and all findings before they were signed by the commissioners. His close application and vigorous conduct of cases went far to support the acts of the Commission when reviewed by the courts.

This division expended much time in establishing forms; and the practice on appeal as formulated not only has been adopted by the appellants in every case, but also has met the approval of the attorney general and of the Appellate Division, Third Department.

Mr. Grimes assists the chief counsel in the character of work just described.

Mr. Ward has taken care of collections against non-insurers. It has been necessary to commence many civil actions for collections in the Municipal Court of New York City, and in the Supreme Court. As a basis for fixing the amount of the penalty, an examination of the defendant before trial as to the number of employees and the amount of payroll has been necessary.

Mr. Connor resigned as chief counsel in the month of December and terminated his connection with the Bureau on the last day of the year. His successor is Mr. Robert W. Bonyng, who becomes not only the chief counsel of the Bureau but chief counsel as well for the State Industrial Commission.

ACTUARIAL DIVISION

This division is in charge of Mr. Joseph H. Woodward. The present duties of the actuary so far as they relate to the general work of the Bureau are limited to computing present values of awards made and payable in instalments. Aside from this his work is exclusively with the state fund where his analysis of claims and state fund experience is a guide to dividends and rate

making. The state fund report will reflect the activities of this division during the year.

STATE FUND DIVISION

This division is in charge of Mr. F. Spencer Baldwin, Manager, with Mr. Nicholas W. Muller as Assistant Manager. The manager's report which is submitted herewith and made a part of this report amply and adequately covers the field of activities of the state insurance fund.

INFORMATION

The Bureau still finds it expedient, even necessary, to continue its information division. At first this division was visited daily by two hundred or three hundred people who came to inquire about the law and their rights under it and also about pending claims. But, as claims came to be more rapidly disposed of and the Bureau caught up with its calendar, the work of the division was greatly lessened. Then came the amendment to the law which effected a radical change and again was the division overrun with inquiries. Likewise, as the amended law became better understood, fewer inquiries were made in person. It may be said the normal condition has been reached which requires the constant services of three employees. The scope of this division could be somewhat broadened to advantage if the Commission should care to undertake to a greater degree to assist claimants in doing the routine work necessary in perfecting claims. Forms are prepared with the thought in mind to guide anyone not familiar with the method; and yet there is much awkwardness that causes some unavoidable delays.

"THE BULLETIN"

The Bureau has reaped its share of advantages from the publication of "The Bulletin," the Commission's official monthly periodical, and no issue has appeared without an article by the deputy commissioner in charge and articles also from the state fund and legal divisions. This practical and most useful means of disseminating information works a distinct advantage in the administration of the law which is a new and long statute embracing legislation in a new field. It is therefore apparent that many delays and irregularities are attributable solely to ignorance of the law. It is a fine means also for the promulgation of infor-

mation about the state insurance fund which is constantly conscious of the handicap of being forbidden to solicit business when its competitors are most active and none too careful in their representations concerning the fund.

CIVIL SERVICE

From the standpoint of the civil service the Bureau is beyond criticism. All grade employees are permanent civil service appointees with the exception of the provisional assistant examiners of claims and these have taken an examination. The Bureau is awaiting the promulgation of eligible lists under this title. It may be said, then, that temporary employees are selected from proper lists; that advancement is made on promotional examinations; and that permanent employees are regularly selected. Within the year the Bureau has co-operated to the fullest extent with the Senate Civil Service Committee appointed to make a report looking to the standardization of employments and salaries, and looks forward without fear to the publication of the report.

STATISTICAL

The Workmen's Compensation Commission had planned for a statistical analysis of claims but the actual work had not been begun. When the Industrial Commission Law became effective and the new Commission perfected its organization it took over the Bureau of Statistics and Information which for many years had been in existence in the Department of Labor. That Bureau at once commenced work along lines formulated after two or three national conferences of statisticians and actuaries connected with compensation bureaus of the various states. The Bureau has been fortunate in thus being able from the beginning to make its statistical analysis along lines of permanent adoption, which in itself gives added value to the results. In that part of this report under the heading Claims Division will be found tables comprising an analysis of the cost of compensation insurance in this state for the period from the time the law became effective, July 1, 1914, to April 1, 1915, when the amended law became effective. This period of nine months forms a natural division and the careful analysis as made will be the basis of a comparison with the effect of the amended law.

WILLIAM C. ARCHER,

Second Deputy Commissioner.

(2) REPORT OF THE STATE INSURANCE FUND

(A) REPORT OF THE MANAGER

To the Industrial Commission:

Growth of the Fund

The State Insurance Fund secured a substantial increase of business during the year ending December 31, 1915. The number of policy holders increased from 7,119 to 8,507. Notwithstanding the increase in the number of policyholders, the volume of premiums in force was slightly smaller on December 31, 1915, than at the close of the preceding year, the respective amounts being \$674,973.64 and \$692,583.64. This decline was apparent and not real, being due to two facts: first, that the volume of premiums on December 31, 1914, was based on the higher rates in force for the first policy period, which ended on that date, and second, that the merit reductions from the manual rates granted in recognition of safety conditions as determined by inspections had not yet been applied. The volume of premiums as of December 31, 1915, is based on the reduced rates which went into effect at the first of the year, these rates being further reduced through merit re-rating. The lower rates and the merit reductions together decrease the amount of premiums in force by over 20 per cent.

It is noteworthy that the Fund has held practically all the business that it has obtained from the beginning, notwithstanding the fact that it has had to meet the competition of nearly fifty stock and mutual companies writing compensation insurance. The total loss of business through cancellations has been very small, and most of the withdrawals have been due to discontinuance of business on the part of policyholders. The total amount of semi-annual premiums represented by withdrawals of employers transferring their insurance to stock or mutual companies is roundly \$12,000. As an offset to this slight loss, the Fund has secured approximately \$250,000 of semi-annual premiums through new business during the eighteen months of operation, from July 1, 1914, to December 31, 1915. The success of the Fund in holding old business and getting new business is most gratifying, in the face of the efforts made by both stock and mutual companies

to entice employers away from the Fund and the constant attacks to which it has been subjected from this quarter.

The financial statement for the year, which is appended to this report, shows a sound condition in all respects. The net premium income for the year was \$1,293,613.15. The total losses paid during the year amounted to \$296,013.83. The amount of loss reserves on December 31, 1915, was \$906,848, and the catastrophe surplus \$145,729.33. The total surplus to policyholders earned during the year was \$400,314.22, and the dividends paid during the year totaled \$347,541.45. The investments on December 31, 1915, amounted to \$1,059,824.91, and the cash on deposit to \$207,841.04.

The Fund has earned a total surplus to policyholders of \$579,211.57 since it began business July 1, 1914. This amount has been earned after the payment of losses to the amount of nearly \$300,000, and after setting aside reserve and surplus funds of more than \$1,000,000. .

The loss ratio for the eighteen months ending December 31, 1915, was 64.8 per cent. It should be noted that this ratio would have been considerably lower if the State Fund had charged the same rates as the casualty companies; on the basis of the larger premium income which the higher rates would have yielded, the loss ratio would have been approximately 56 per cent. The expense ratio for the eighteen months was 14.3. The management expenses were paid by the state under the provision of the law guaranteeing such payment until January 1, 1917, but if the Fund had paid its own expenses, the portion of the earned premiums used for this purpose would have amounted to 14.3 per cent. The expense ratio, like the loss ratio, would have been somewhat lower if the Fund had charged the higher rates of the casualty companies, amounting in that case to roundly 13 per cent.

A summary of general facts concerning the condition of the Fund and a detailed statement of assets and liabilities, and of income and disbursements are appended to this report.

Surplus and Reserves

Under the provision of the Workmen's Compensation Act requiring 10 per cent of the premiums to be set aside for the creation of a catastrophe surplus until the amount so accumulated reaches the sum of \$100,000, and thereafter 5 per cent until such time as the surplus shall become sufficiently large to cover the catastrophe hazard, the Fund had accumulated on December 31, 1915, a catastrophe surplus of \$145,729.33, the increase during the year amounting to \$81,213.93. When the amount of \$100,000 was reached, the percentage of deduction was reduced from 10 per cent to 5 per cent. In addition to the catastrophe surplus, the Fund had on December 31, 1915, an undistributed surplus to policyholders of \$231,670.12, making a total amount of \$377,399.45 which would be available to meet a catastrophe loss. As the average amount of reserve required for a death case is somewhat less than \$4,000, the amount available for catastrophe losses would have covered the cost of a disaster resulting in nearly 100 deaths. The Fund is thus already protected to a very large extent against the catastrophe hazard.

The loss reserves on December 31, 1915, amounted to \$906,848.16, the increase for the year being \$540,378.30. The loss reserves have been computed on a conservative basis with a view to absolute adequacy. The method adopted for computing these reserves, which was explained in the first annual report, has received the virtual approval of the State Insurance Department, which has prescribed this method for the use of the mutual companies writing compensation insurance in this state.

Rates

The revised schedule of rates, which was put into effect on January 1, 1915, in accordance with the provision of the law requiring a readjustment of rates to be made on that date, has been maintained in force throughout the year with few changes. The rates for some classifications have been revised from time to time to remove inequalities and inconsistencies, but no extensive revision has been found necessary in the light of experience. In fact, the experience to date indicates that the present rates, which average approximately 20 per cent lower than the rates of the

casualty companies, are adequate to cover losses, to provide ample reserve and surplus funds, and to yield substantial dividends to policyholders.

Groups and Dividends

A rearrangement of the groups into which employers are divided for the purpose of keeping accounts and computing dividends was made by resolution of the State Industrial Commission, adopted June 25, 1915. This action was taken under the authority conferred upon the Commission by section 95 of the Workmen's Compensation Act, which empowers the Commission to rearrange any of the groups set forth in section 2 by withdrawing any employment embraced in it and transferring it wholly or in part to any other group, and from such employments to set up new groups at its discretion. Under the new plan, the original forty-two groups as specified in the act are combined into six large groups as follows:

New Groups	Old Groups
A Light Manufacturing.....	16, 23, 35, 37, 38, 40,
B Other Manufacturing.....	15, 17, 20, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 39
C Building and Construction.....	42
D Mining, Quarrying and Lumbering.....	14, 18, 19
E Excavation, Tunneling and Subaqueous Construction.....	11, 13
F Transportation, Public Utilities, Commercial and Miscellaneous....	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 22, 41

The reduction of the number of groups simplifies and expedites the work of the bookkeeping and actuarial divisions of the Fund, making it possible to determine the dividend percentages and to notify policyholders of their dividend credits after the close of a policy period without undue delay. The new plan has the further advantage of giving a broader basis of experience in the groups for the distribution of dividends, doing away with extreme fluctuations with respect to dividend rates in the different groups and for successive policy periods. The dividends paid for the first policy period ending December 31, 1914, in the forty-two original groups averaged 14.8 per cent; the dividends paid in the six combined groups averaged 15 per cent for the second policy period ending June 30, 1915, and 16 per cent for the third policy period ending December 31, 1915.

In addition to the six general groups, the Fund has established a number of special groups composed of individual employers having a payroll exposure sufficiently large to afford a proper insurance distribution and thus warrant a separate grouping. Under this plan, a separate account is kept with an employer constituting such a group and any balance of his premium remaining after the payment of all losses on account of injuries or deaths sustained by his employees and the provision for loss reserves and catastrophe surplus as required by law, is credited as a dividend on the next installment of premium. The establishment of individual groups was authorized by the Commission under the provision of section 95 of the Workmen's Compensation Act empowering it to set up new groups at its discretion. This plan of individual grouping has been criticised by the opponents of the Fund, and in view of this criticism, it seems pertinent to supplement the brief statement concerning this plan given in the first annual report with a further explanation of its advantages to the Fund as a whole and to all employers insured in it.

It is obviously most desirable that large employers of labor should be brought into the Fund. The volume of premiums thus secured increases the financial stability of the Fund and, in particular, accelerates the accumulation of an adequate catastrophe surplus. Moreover, the larger the volume of premiums, the smaller the proportion of overhead charges that will fall upon the individual policyholder when the Fund is called upon to pay its own management expenses after January 1, 1917. The only way in which the large employers who have been grouped by themselves could be brought into the Fund was by offering them an arrangement of this kind, otherwise they would have elected to carry their own risks. The State Fund, which is competing with self-insurance, cannot secure the business of large concerns to any considerable extent, unless it offers a plan of individual grouping. Such a plan holds out all the advantages of self-insurance without its drawbacks. It is, in fact, a preferable substitute for self-insurance. It gives the employers grouped by themselves the benefit of their own experience and insurance at the exact net cost of carrying their own risk, which is the chief attraction of self-insurance for large employers. An employer

grouped by himself is not called upon to share his own experience with other employers who may be less careful in matters of plant equipment and safety organization. Whatever he can accomplish to prevent accidents in his plant, and consequently reduce his insurance cost, benefits himself directly and solely. The plan thus brings to bear the strongest incentive to improve safety conditions and to protect life and limb of employees. It is thus beneficial to the employees insured under it, as well as to the employer.

In short, the individual group plan is highly advantageous not only to policyholders placed in the individual groups, but to the Fund as a whole, and to the other policyholders, since it increases the financial strength and stability of the Fund and reduces the cost of insurance to every policyholder. There can be no question that the establishment of individual groups is in the interest of the safety and solvency of the Fund, and for the benefit of all employers and employees insured in it. This plan helps to make the Fund a safer and cheaper insurance agency for employers at large.

From the point of view of insurance administration, it is proper to set up as a group within the meaning of the act any employer with a payroll exposure sufficiently large to afford what the actuaries call a satisfactory insurance distribution, or in other words, to constitute a real insurance unit. In determining what amount of payroll exposure shall be taken as affording a satisfactory insurance distribution, the rule adopted by the Fund calls for a payroll of approximately 2,500 employees. The law governing the formation of mutual companies lays down as one of the conditions for the formation of such a company a payroll of at least 2,500 employees. Similarly the Fund recognizes as a group within the meaning of the act an individual employer or a number of employers in the same trade having a payroll exposure of this size.

The only objection brought against the individual group plan which deserves consideration is that it involves discrimination in favor of the large employer, who is thus enabled to get a low rate of insurance, representing the exact cost of carrying his own risk alone, as against the small employer, who is compelled to share

the burden of others placed in the same group. It is argued that this plan is inconsistent with the theory of workmen's compensation, which requires that the cost be distributed over the entire industry and borne collectively by all the employers in the trade. It is held that the employer who is placed in a group by himself is relieved of his part of this collective burden and is enabled to obtain insurance at a special low rate. It is a sufficient answer to this argument to point out that the law itself discriminates in favor of the larger employer by permitting self-insurance. The provision for self-insurance offers the large employer the opportunity to carry his own risk and escape his share of the collective burden of his trade—an opportunity not open to the small employer. The Fund did not initiate this form of discrimination. It is not consistent to permit self-insurance under the act and to deny or to question the right to create individual groups in the State Insurance Fund, on the ground that this involves discrimination. As long as the option of self-insurance is open to large employers under the act, the only way they can be induced to place their insurance in the Fund is by offering them the advantages of individual grouping. It is highly desirable in the interest of the Fund, its policyholders and their employees, that large employers should be brought into the Fund in considerable numbers. The only practical method to attain this desirable end is through the institution of individual groups. It is not a question of taking the business of large employers on the usual terms and placing them in the general groups, or offering them special terms and putting them in individual groups, but it is a question of getting this business through the individual group plan or losing it outright. With this alternative confronting the management of the Fund, there can be no doubt that the creation of the individual groups was a proper step on grounds of business policy and insurance administration.

Merit Rating

The inspections of risks for merit rating purposes have been made for the State Fund by the Compensation Inspection Rating Board, which includes in its membership all the insurance carriers under the act, except self-insurers. The system of merit

rating has been improved in various ways during the year and is now generally satisfactory with the exception of one feature. This is the present method of experience rating under which the employer may secure a reduction of rate based on his previous accident record, in addition to the reduction for safety conditions in the plant as determined by inspection.

The main objections to experience rating as now administered are, first, that the plan is not applied uniformly for all risks but only for such risks as may be submitted to the Board by the insurance carriers, and second, that the experience on which the ratings are based is largely that developed in a period prior to the establishment of the compensation system. The companies submit for experience rating only risks which can show a comparatively good accident record and thus secure a substantial rate reduction. The risks on which the experience has been conspicuously bad and would, therefore, call for an increase of rate are not submitted to the Board. In consequence of this practice, the present plan results in extensive reductions of the rates for selected risks without the application of offsetting increases for other risks on which the experience has been unfavorable. This result tends obviously to impair the adequacy of the rates, as a whole, as the rate reductions are not counterbalanced by rate increases. As at present administered, experience rating serves as a means of discriminatory rate cutting for favored risks. Moreover, the experience on which the rates are based is most unsatisfactory for the purpose, as it is well known that very few employers kept proper records of accidents before the enactment of the Workmen's Compensation Law, and the experience under the law is in itself very different from that under the old liability system. Any body of experience developed prior to the passage of the law is an unsound basis for rate making in general and for merit rating in particular.

The State Insurance Department has taken cognizance of the shortcomings of the existing scheme of experience rating and has taken steps to bring about a reform. At the suggestion of the Department, a committee of the Compensation Inspection Rating Board has been formed to take the whole matter under consideration and formulate, if possible, an equitable and scientific plan of experience rating.

During the year 3,478 merit rating reports were received by the State Fund from the Compensation Inspection Rating Board. Of this number, 2,620 showed rate reductions averaging 16.1 per cent, and 534 showed rate increases averaging 17.7 per cent. The reports furnished the State Fund included in all cases a supplementary statement pointing out the location and nature of the defects in the plant which resulted in debits or prevented the grant of credits. This information was communicated to the employers through the inspection department of the State Fund, which submitted recommendations for the improvement of safety conditions, and upon request, made safety inspections to assist employers in perfecting the safety equipment of plants and thus securing the lowest possible merit rating.

Accidents and Inspections

The number of accidents reported by employers in the State Fund during the twelve months, January 1 to December 31, 1915, was 12,783. This total includes 83 death cases, 1 total permanent disability case, 252 partial permanent disability cases, and 3,076 temporary total disability cases, on all of which compensation is payable. Medical and hospital service was provided by the State Fund in 7,107 cases, and the average cost per case was \$11.70. As the State Fund issues a special form of policy at a 20 per cent reduction from the regular rates, under which the provision of medical and hospital treatment is left to the employer, this service was furnished in a considerable number of cases by the policyholders and not by the State Fund. It is interesting to note that the number of accidents reported increased greatly during the second half of the year, by reason of the general improvement of business conditions and the consequent increase in the number of employees and the greater activity of plants, the increase in the number of the reports amounting to about 50 per cent as compared with the first half year.

The total number of inspections of plants made by the inspection and accident prevention division during the year was 1,788. About 10,000 recommendations for the installation of safeguards and the formation of plant safety organizations were sent to policyholders. In general, the policyholders have shown a gratify-

ing readiness to comply with safety recommendations and to co-operate with the State Fund for the improvement of risks and the reduction of insurance costs.

Claim Service

The passage of amendments of the Workmen's Compensation Act at the last session of the Legislature which permitted employers to make agreements with employees for the payment of compensation has brought about a noticeable improvement in the system of adjusting and paying claims. In general, the larger policyholders have availed themselves of the power to make agreements and pay compensation directly to their employees, while the smaller employers have preferred to have their employees send claims to the Commission for award and payment. The natural division of the work in this way has facilitated and expedited the handling of claims.

Charges by the Aetna Life Insurance Co.

An episode in the developments of the year which should be mentioned in this report was the presentation before the Governor of charges against the Manager of the State Insurance Fund by an official of the Aetna Life Insurance Company. On August 12, 1915, Vice-President J. S. Rowe, of this company, addressed a communication to Governor Charles S. Whitman protesting against alleged unfair, unfriendly and discourteous treatment of the stock insurance companies by the Manager of the State Fund. On August 18, the Manager submitted to the State Industrial Commission a reply to this communication. On September 4, the Governor issued a communication to Mr. Rowe dismissing the latter's charges as not sustained by the evidence and declining to take further action. On September 10, Mr. Rowe sent a second letter to the Governor which called forth no reply, as it merely reiterated the unsubstantiated charges contained in his previous letter. Finally, on October 25, the State Industrial Commission gave out a public statement defining its attitude on the issue raised by the correspondence and closing the controversy as far as the Commission and the State Fund are concerned.

The fundamental issue in this correspondence was the right of the State Fund to compete for business with the casualty com-

panies. In his reply to the charges of Mr. Rowe, the Manager of the State Fund maintained the right of the State Fund to compete, using the following language: "The State Fund, in order to realize the full measure of its potential usefulness to employers and employees, should be a live, active, vigorous competitor of the casualty companies. It should not be relegated to the insignificant position of insurance carrier for the undesirable business and bad risks not wanted by the casualty companies — although that is the role which the latter would naturally prefer to see the State Fund play. The function of the State Fund is something higher than that of serving as a convenient dumping ground for business rejected by the stock companies." The Governor, in his communication dismissing the charge, declared that the "Manager of the State Fund is conducting a competitive business enterprise." The Commission in its public statement pointed out that the State Fund, in order to be managed economically and to be of the greatest service to the industries and the people of the state, will need to do a large volume of business, in order that the ratio of expenses for administration may be kept as low as possible. For this reason, the Commission declared that the Manager of the State Fund "is right in making such efforts as he can to increase its volume of business" and that it would support "every effort of the Manager of the State Fund to present the exact situation to employers, whether by interviews or by correspondence, so that the manifest purpose of the Legislature to provide a perfectly safe method of insurance at bare cost may be presented and employers given every opportunity to avail themselves of it, if they wish."

The reasons why the compensation insurance business needs the competition of state funds have recently been stated with great cogency by W. W. Greene, manager of the Colorado State Compensation Insurance Fund. Mr. Greene points out that it is not possible to secure a fair test of the respective merits of the different forms of insurance permitted to employers under the workmen's compensation acts, if state funds are not permitted to compete actively for business with private companies. A passive policy in the administration of a state fund must result in abnormally high loss and expense ratios, as a state fund administered on this

basis will secure only a small volume of business made up of the least desirable risks. Mr. Greene well says: "What the community wants and has the right to expect is a fair test of the several types of insurance carrier — an experiment conducted with energy and sincerity by all parties. If, as now, the companies are personally canvassing every employer in the state to make him conversant with the merits of stock insurance, the management of the fund is not doing its duty unless it makes a positive effort to acquaint employers with the functions and advantages of the fund. Moreover, it is obvious that since insurance in the State Fund is presumably for the purpose of protecting employees, a fund of fair size must be established in order to fulfill the intent of the framers of the compensation act."

In short, if the State Fund is to be made a really safe and cheap insurance institution for employers at large, it must be an active competitor for business and not merely a passive receiver of damaged goods for the private companies.

The Question of Common Law Liability

The question of liability at common law has been a subject of lively discussion throughout the year. Numerous pamphlets and circulars dealing largely with this question have been issued by the stock companies. A considerable part of the literature of the State Fund deals with the same question.

The main argument advanced by the stock companies against insurance in the State Fund is that its policy does not cover liability at common law and consequently gives the employer only partial protection. The contention of the management of the State Fund has been that, while its policy covers only the liability arising under the Workmen's Compensation Act, the alleged liability at common law is practically non-existent, since such liability is wiped out by the act for employers engaged in hazardous employments who provide compensation for their employees by insurance in one of the prescribed ways. The fundamental intent of the act was to do away with liability at common law and to substitute for it liability for compensation. This intent is carried out for employers in general by the provision of section 11, making the liability for compensation exclusive. Moreover, employers insured in the State Fund are given special additional protection by the

provision of section 53, which relieves an employer paying a premium to the State Fund from all liability on account of personal injuries or death sustained by his employees. In consequence of the latter provision, the coverance afforded by the State Fund policy under the Workmen's Compensation Act is absolutely complete. The management of the State Fund has contended, accordingly, that its policyholders are given perfect coverance under the Workmen's Compensation Act and that this is the only protection really needed by employers engaged in hazardous employments that come squarely within the provisions of the act. This contention has been substantiated by the experience of the State Fund to date, as no case has arisen in which its policy has failed to give complete protection to the employer.

The competitors of the State Fund cite in this connection various decisions of the Appellate Division, Third Department, Supreme Court, in compensation cases, as showing the existence of liability outside the Workmen's Compensation act not covered by the State Fund policy. The principal cases thus exploited as arguments against insurance in the State Fund are the following: Shinnick vs. The Clover Farms Co., in which the Court sustained the right of action on the part of an employee who had suffered a disfigurement by the bite of a horse; Bargey vs. Massaro Macaroni Co., in which compensation was denied to the dependents of a carpenter killed while doing a piece of construction work in a factory; Gleisner vs. Gross & Herbener, in which the Court held that a janitor, injured while ascending a roof to put up a flag, was not entitled to compensation.

Without entering into a discussion of the issues involved in these cases, it may be pointed out that they emphasize strongly the need of an amendment of the act to clear up, once for all, troublesome questions as to its application to certain classes of employees, and further, to make the coverance under the State Fund policy clear, definite and complete beyond any possibility of doubt. It is an intolerable situation that employers insured in the State Fund, or desiring to place their insurance with it, should be deterred or disquieted by reason of any questions as to the application of the act and the coverance under the State Fund policy. Employers are entitled to a speedy remedy for this condition at the

hands of the Legislature. The Workmen's Compensation Act should be amended in such way as to remove all possible doubt as to the scope of the act and the coverance afforded by the State Fund policy. This can be effected by amendments defining and extending the scope of the act or granting to the State Fund authority to issue a policy covering not only liability for compensation but also any incidental or collateral liability at common law. It is hoped that the Legislature will take action that will settle decisively the moot questions relating to liability at common law and coverance under the State Fund policy and thus remove the whole subject from the realm of controversy.

F. SPENCER BALDWIN,
Manager State Insurance Fund.

GENERAL FACTS CONCERNING STATEMENT FOR DECEMBER 31, 1915

Number of policyholders.....	8,507
Premiums in force.....	\$674,973 64
Net premiums written (18 months ended December 31, 1915).....	1,983,377 09
Earned premiums (18 months ended December 31, 1915).....	1,914,586 63
Expense estimate furnished by bureau of cashier (18 months ended December 31, 1915).....	275,679 54
Expense ratio to earned premiums.....	14.3
Losses and loss reserve (including \$26,413.05 deferred claim department charges). ..	1,240,638 13
Loss ratio to earned premiums.....	64.8
Total surplus accrued to policyholders (18 months ended December 31, 1915).....	579,211 57
Less dividends allowed (18 months ended December 31, 1915).....	347,541 45
Undivided surplus available for dividends to policyholders.....	231,670 12
Investments.....	1,059,824 91
Number of accidents reported (18 months ended December 31, 1915).....	17,315
Number of death cases (18 months ended December 31, 1915).....	126

ASSETS AND LIABILITIES

ASSETS	December 31, 1914	December 31, 1915
Investments.....	\$538,937 50	\$1,059,824 91
Cash on deposit.....	107,725 31	207,841 44
Accrued interest on investments.....		14,510 39
Accrued interest on deposits.....		959 60
Policyholders' account.....	7,830 72	69,902 73
Total.....	\$654,493 53	\$1,353,039 07
LIABILITIES		
Reserve for losses (including 3% of reserve for deferred claim charges).....	\$366,469 86	\$906,848 16
Reserve for unearned premiums.....	44,610 92	68,791 46
Reserve for catastrophe.....	64,515 40	145,729 33
	\$475,596 18	\$1,121,368 95
Surplus for policyholders.....	178,897 35	231,670 12
Total.....	\$654,493 53	\$1,353,039 07

INCOME AND DISBURSEMENTS YEAR ENDED DECEMBER 31, 1915

INCOME

Net Premium Income.....		\$1,293,613 15
Miscellaneous Income:		
Interest received on investments.....	\$37,488 13	
Accrued interest on investments.....	14,510 89	
	<u>\$51,998 52</u>	
Less accrued interest on bonds acquired...	6,830 66	
	<u></u>	
Net interest earned on investments.....		\$45,167 86
Interest received on deposits.....	\$2,782 87	
Accrued interest on deposits.....	959 60	
	<u></u>	
Total interest on deposits.....		3,742 47
	<u></u>	
Total interest income.....		\$48,910 33
Sale of manuals.....		15 00
	<u></u>	
Total miscellaneous income.....		48,925 33
	<u></u>	
Total income.....		\$1,342,538 48

DISBURSEMENTS

Losses Paid:		
Medical.....	\$75,645 85	
Temporary total disability.....	118,049 97	
Permanent total disability.....	600 00	
Dismemberment.....	63,872 48	
Death — Funeral expenses.....	7,408 75	
Death — Dependency.....	30,436 78	
	<u></u>	
Total losses paid.....		296,013 83
Bank exchange charges.....		369 70
Insurance on investments.....		15 00
Profit and loss charges.....		52 96
Increase in Reserves:		
For losses (including reserve for deferred claim department charges of \$26,413.05).....	\$540,378 30	
For unearned premium.....	24,180 54	
For catastrophe.....	81,213 93	
	<u></u>	
Total increase in reserves.....		645,772 77
	<u></u>	
Total disbursements and increase in reserves.....		\$942,224 26
	<u></u>	
Surplus earned (year ended December 31, 1915).....		\$400,814 22
Surplus (December 31, 1914).....		178,897 35
	<u></u>	
		\$579,211 57
Dividends allowed (year ended December 31, 1915).....		347,541 45
	<u></u>	
Surplus to policyholders.....		\$231,670 12

STATE INSURANCE FUND INVESTMENTS, DECEMBER 31, 1915

Description	Par value	Book value	Date of maturity	Interest rate (%)
New York City, No. 210-V16 and No. 211-V16.....	\$125,000 00	\$120,078 13	March 1-64	4½
City of Brooklyn Registered—Comptroller's Receipts for Brooklyn Bridge, Nos. 327, 328, 329...	175,000 00	178,937 50	July 1-19	5
C/S New York City, Water Supply, W 15/251.....	150,000 00	149,625 00	March 1-64	4½
C/S New York Registered, No. 1189-V10.....	108,000 00	104,895 00	May 1-59	4
C/S New York Registered, No. 456-VII, No. 366-W10, No. 475-W9...	5,000 00	4,863 75	May 1-59	4
C/S New York Registered, No. 9677V.....	37,000 00	35,982 50	November 1-56	4
C/S New York Registered.....	25,000 00	23,906 25	May 1-59	4
C/S New York Registered.....	25,000 00	24,906 25	March 1-64	4½
City of Albany Bonds, Nos. 67-71; River Front Improvement Bonds, Nos. 656-700; New Intercepting Sewer Bonds.....	50,000 00	50,562 50	June 1-55	4½
City of New York Bonds.....	25,000 00	24,531 25	September 1-60	4½
St. Lawrence County Bonds, Nos. 543-557.....	15,000 00	15,436 35	January 1-35	4½
St. Lawrence County Bonds, Nos. 558-572.....	15,000 00	15,452 40	January 1-36	4½
St. Lawrence County Bonds, Nos. 573-587.....	15,000 00	15,467 85	January 1-37	4½
St. Lawrence County Bonds, Nos. 598-602.....	5,000 00	5,160 85	January 1-38	4½
City of New York Registered.....	50,000 00	50,937 50	June 1-65	4½
City of New York for Construction of Rapid Transit Railroads—Series R13 No. 222.....	1,000 00	1,020 00	June 1-65	4½
City of New York for Supply of Water, W16-No. 231.....	49,000 00	49,980 00	June 1-65	4½
Village of Dobbs Ferry Registered, No. 51—150.....	100,000 00	101,496 83	{ Serial Aug. 1, 1928-1944 }	4½
Town of Meriden, Montgomery Co., N. Y., Union Free School District No. 14 Reg. Ctfs. Nos. 11-23.....	50,000 00	54,440 00	{ Serial Nov. 1, 1926-1938 }	5
Town of North Hempstead, Nassau Co., N. Y., Water Bonds Ctfs., Nos. 1-15.....	30,000 00	32,145 00	{ Serial Sept. 1, 1920-1934 }	5
	\$1,055,000 00	\$1,059,824 91	.....	.....

(B) ACTUARIAL ANALYSIS OF ACCIDENTS ARISING UNDER THE NEW YORK WORKMEN'S COMPENSATION LAW

Actual statistics relating to the cost of workmen's compensation claims in the United States are, up to the present, difficult to obtain. For this reason it is thought that some analysis of the 10,307 accidents reported to the New York State Insurance Fund during the year ended June 30, 1915, the first year of the operation of the act, may not be without interest.

Schedule A, appended to this memorandum, shows analysis of these accidents according to the character of the benefit payable, giving the total incurred loss under each head and the average cost per accident. The experience in all cases has been brought down

to December 31, 1915. This means that at least six months has elapsed between the date of the last accident and the date of the compilation of the experience, thus insuring statistics much more accurate than those compiled immediately at the close of the period to be analyzed.

The first point to be mentioned is that these 10,307 accidents are simply "notices." It has been found impracticable to reduce them to terms of "tabulatable" accidents or to apply any other definition of what constitutes an accident. (The commonly accepted definition of a standard or "tabulatable" accident is one which disables the employee for some part of a day other than the day on which the "accident" occurs.) It will, of course, be recognized that the number of "notices" depends very largely upon the practice of the employers whose operations are covered by the insurance policies issued. Large employers with well organized first aid and accident prevention service are likely to report every accident down to the merest scratch, however trivial, while small employers whose operations are not on a sufficient scale to permit of the systematic organization of accident work are not apt to file notices of accident unless the case appears to be sufficiently serious to make it appear probable that either medical aid or compensation will be payable.

To reduce to terms of "compensatable" accidents there must be subtracted from 10,307 the sum of the 3,649 cases in which there was no loss and the 4,189 cases in which, although medical aid was paid, there was no compensation — 7,838 cases in all — leaving 2,469 "compensatable" accidents where the injury caused either death, dismemberment or disability continuing for more than two weeks from the date of the accident. The calculated incurred loss in these 2,469 cases was \$650,468.41, which gives an average of \$263.47 per compensatable injury, not including the cost of medical aid.

With respect to the several items in Schedule A, the following comments are submitted:

Item I shows that out of 83 deaths which occurred up to December 31, 1915, arising from accidents occurring on or before June 30, 1915, 72 were cases involving dependency with an average present value of \$3,997, almost exactly \$4,000, including

the "reasonable funeral expenses not exceeding \$100" stipulated in subdivision 1 of section 16 of the law. These present values were computed upon the basis of the Survivorship Annuitants' Table of Mortality, the remarriage rate of the Dutch Royal Insurance Institution and $3\frac{1}{2}$ per cent interest. An item of \$20,276.19 "suspended mortality" has been added to the incurred loss to provide the additional reserve for deaths which may arise after December 31, 1915, from accidents occurring previous to June 30, 1915.

Five cases valued as permanent total disabilities are provided for under Item II. These cases have in general been reserved for on the basis of a life annuity at the attained age according to the Survivorship Annuitants' Table of Mortality and $3\frac{1}{2}$ per cent interest. In order that the nature of these cases may be entirely clear, there is given in Schedule D a brief statement of the date of accident, nature of injury, age, wages, valuation factor and reserve in each case.

Under Item III is given the data regarding the cases of permanent partial disability arising from dismemberment. The incurred loss in each of these cases is taken as the rate of compensation per week multiplied by the number of weeks' compensation specified in section 15 of the law, the effect of discount for interest and mortality being disregarded for valuation purposes.

Item IV shows that the experience contains only two known cases of permanent partial disability which does not arise from dismemberment. These figures are so widely at variance with the published results of European experience that one hesitates to accept them as an indication of the ultimate facts under the New York law. Details of these cases are given in Schedule E.

Item V shows that out of 2,155 cases where compensation was awarded for temporary total disability, 28 cases remained open on December 31, 1915, in the sense that no evidence was forthcoming on that date that the injured employee had recovered. These cases were valued upon the basis of the reserve values given in Schedule C. This valuation table for open temporary total cases was adopted by the State Fund after considerable experimental work and is based, after the first seven weeks, upon the assumption that

an employee who has not recovered after two years from the date of the injury may, for valuation purposes, be regarded as permanently and totally disabled, and that after the period of seven weeks mentioned the value of the liability approaches the total permanent value by equal amounts for equal intervals of time. Since the table has been based upon an average age, it will sometimes happen that when the actual age of the injured employee is taken into account the reserve for permanent total disability will be less than the reserve for temporary total disability. For such cases our rule is to use the reserve for permanent total disability. It is believed that under this method a sufficient reserve is carried on open temporary cases to take care of those cases of permanent disability which may emerge from this class subsequent to the valuation date. In this connection attention may be called to the very great difficulty of distinguishing a case of permanent total disability not due to dismemberment from a long-term case of temporary disability. It is obviously impossible to follow the terms of the official award in classifying these cases, for the reason that the law provides that in case of temporary total disability compensation shall be paid to the employee during the continuance thereof, but not in excess of \$3,500. Therefore, it may be five or more years before the Commission is called upon to officially determine whether a certain injury will result in permanent total disability, since meanwhile it is merely necessary to continue the case from time to time under awards for temporary disability. Now, it is clear that if statistics as to this matter are to be of real value, they must be based not upon the terms of the official award, but upon the actual facts, so far as they may be ascertained, to show whether the injury is in all probability a permanent one. This, however, is a difficult matter.

The average value of the 2,155 temporary cases, both open and closed, was \$85.36. The closed cases include cases where compensation awarded was outstanding and unpaid December 31, 1915, provided the employee had recovered on that date. A synopsis of the 28 open cases, giving the date of accident, nature of injury, annual wages, duration, valuation factor and reserve, is given in Schedule F.

In Schedule B, appended to this memorandum, is given an analysis of the 6,685 notices which arose under "A" policies — that is, policies under the provisions of which the medical cost is borne by the State Fund and *not* by the employer. This table permits an estimate to be made of the relative proportion of total compensation payable, which is represented by each of the several classes of benefit provided in the act. Thus the cost of the death benefit is 37.3 per cent of the cost of the total; the cost of temporary total disability, 24.3 per cent; of dismemberment, 16.8 per cent; of medical, 16.6 per cent. The accuracy of these percentages depends largely, of course, upon the accuracy of the reserve computations. An exact determination of the problem on the basis of actual results would require many years of completed experience.

J. H. WOODWARD,

Feb. 7, 1916.

Actuary.

Schedule A

INCURRED LOSS, JULY 1, 1914, TO JUNE 30, 1915
(Experience brought down to December 31, 1915)

Accidents reported	KIND OF BENEFIT		Incurred loss	Average per accident
72	I	a. Death: Dependents (including \$6,970 funeral).	\$287,748 88	\$3,997 00
11		b. Death: No dependents, funeral only.....	1,004 50	91 00
.....		c. Suspended mortality.....	20,276 19	.....
5	II	Permanent total disability.....	30,856 34	6,171 00
224	III	Permanent partial disability—dismemberment.	118,719 30	530 00
2	IV	Permanent partial disability—not dismemberment.....	7,912 00	3,956 00
28	V	a. Temporary total disability—open cases as of December 31, 1915.....	81,029 00	2,894 00
2,127		b. Temporary total disability—closed cases as of December 31, 1915.....	102,922 22	48 00
.....	VI	Temporary partial disability.....	.....	.....
(1,472)	VII	a. Medical aid—compensatable cases.....	44,874 77	30 00
4,189		b. Medical aid—non-compensatable cases.....	28,301 88	7 00
3,649	VIII	No loss.....	.....	.....
10,307			\$723,645 08	.....

Schedule B

INCURRED LOSS, EXCLUDING POLICIES NOT COVERING MEDICAL, JULY 1, 1914
TO JUNE 30, 1915
(Experience brought down to December 31, 1915)

Accidents reported	KIND OF BENEFIT		Incurred loss	Per cent total loss
40	I	a. Death: Dependents (including \$3,922 funeral).	\$152,834 88	37.3
7		b. Death: No dependents, funeral only.....	609 50	
.....		c. Suspended mortality.....	10,818 19	
3	II	Permanent total disability.....	14,041 34	3.2
152	III	Permanent partial disability—dismemberment.	74,334 30	16.8
2	IV	Permanent partial disability—not dismemberment.....	7,912 00	1.8
16	V	a. Temporary total disability—open cases as of December 31, 1915.....	38,409 00	24.3
1,409		b. Temporary total disability—closed cases as of December 31, 1915.....	69,269 22	
.....	VI	Temporary partial disability.....	.....	.....
(1,472)	VII	a. Medical aid—compensatable cases.....	44,874 77	16.6
4,189		b. Medical aid—non-compensatable cases.....	28,301 88	
867	VIII	No loss.....	.....	.....
6,685			\$441,405 08	100.0

Schedule C

RESERVE VALUES FOR TEMPORARY TOTAL DISABILITY

Weeks elapsed since accident	Reserve per \$1.00 of weekly compensation	Weeks elapsed since accident	Reserve per \$1.00 of weekly compensation	Weeks elapsed since accident	Reserve per \$1.00 of weekly compensation
1.....	\$2 00	36.....	\$280 00	71.....	\$630 00
2.....	4 00	37.....	290 00	72.....	640 00
3.....	6 00	38.....	300 00	73.....	650 00
4.....	8 00	39.....	310 00	74.....	660 00
5.....	10 00	40.....	320 00	75.....	670 00
6.....	12 00	41.....	330 00	76.....	680 00
7.....	14 00	42.....	340 00	77.....	690 00
8.....	16 00	43.....	350 00	78.....	700 00
9.....	18 00	44.....	360 00	79.....	710 00
10.....	20 00	45.....	370 00	80.....	720 00
11.....	22 00	46.....	380 00	81.....	730 00
12.....	24 00	47.....	390 00	82.....	740 00
13.....	26 00	48.....	400 00	83.....	750 00
14.....	28 00	49.....	410 00	84.....	760 00
15.....	30 00	50.....	420 00	85.....	770 00
16.....	32 00	51.....	430 00	86.....	780 00
17.....	34 00	52.....	440 00	87.....	790 00
18.....	36 00	53.....	450 00	88.....	800 00
19.....	38 00	54.....	460 00	89.....	810 00
20.....	40 00	55.....	470 00	90.....	820 00
21.....	42 00	56.....	480 00	91.....	830 00
22.....	44 00	57.....	490 00	92.....	840 00
23.....	46 00	58.....	500 00	93.....	850 00
24.....	48 00	59.....	510 00	94.....	860 00
25.....	50 00	60.....	520 00	95.....	870 00
26.....	52 00	61.....	530 00	96.....	880 00
27.....	54 00	62.....	540 00	97.....	890 00
28.....	56 00	63.....	550 00	98.....	900 00
29.....	58 00	64.....	560 00	99.....	910 00
30.....	60 00	65.....	570 00	100.....	920 00
31.....	62 00	66.....	580 00	101.....	930 00
32.....	64 00	67.....	590 00	102.....	940 00
33.....	66 00	68.....	600 00	103.....	950 00
34.....	68 00	69.....	610 00	104.....	960 00
35.....	70 00	70.....	620 00		

Schedule D

PERMANENT TOTAL DISABILITY ACCIDENTS OF JULY 1, 1914, TO JUNE 30, 1915
RESERVE OF DECEMBER 31, 1915

Case No.	Date of accident	NATURE OF INJURY	Age	Two- thirds an- nual wage	Valua- tion factor	Reserve December 31, 1915
1	Aug. 12, 1914	Contusion of hip; spinal con- cussion; nervous symp- toms; pains in head and spine.....	26	\$380 12	21.123	\$8,029 27
2	Aug. 29, 1914	Paralyzed from waist down; no use of lower limbs.....	35	449 80	19.471	8,761 37
3	Nov. 6, 1914	Left hip injured, resulting in shortening leg one inch; in- ability to recover, due to advanced age, 67.....	67	300 04	9.379	2,814 08
4	Nov. 18, 1914	Paralysis of left side; com- plete loss of sensation and motion.....	56	399 88	13.475	5,388 38
5	May 21, 1915	Paralysis of left side.....	61	374 40	11.649	4,361 39

Schedule E

PERMANENT PARTIAL DISABILITY—NOT DISMEMBERMENT—ACCIDENTS OF
JULY 1, 1914, TO JUNE 30, 1915. RESERVE OF DECEMBER 31, 1915

Case No.	Date of accident	NATURE OF INJURY	Age	Annual wage	Annual compensation	Valuation factor	Reserve December 31, 1915
1	July 3, 1914	Arms and left side of body burned and torn by pieces of copper	51	\$1,200 00	\$280 28	14.172	\$3,972 13
2	Feb. 2, 1915	Laceration of scalp and fracture of ribs	34	900 00	221 21	19.680	3,929 94

Schedule F

TEMPORARY TOTAL DISABILITY—ACCIDENTS OF JULY 1, 1914, TO JUNE 30, 1915
RESERVES OF DECEMBER 31, 1915

Case No.	Date of accident	NATURE OF INJURY	Weekly compensation	Valuation factor	Reserve December 31, 1915
1	July 20, 1914	Thigh bone broken	\$7 00	670	\$6,152 30
2	July 27, 1914	Tibia and fibula fractured	5 77	660	3,808 20
3	Sept. 23, 1914	Bones of foot broken	8 65	580	5,017 00
4	Oct. 15, 1914	Foot fractured	8 65	550	4,757 50
5	Dec. 9, 1914	Ankle broken	5 00	470	2,350 00
6	Dec. 11, 1914	A	15 00	470	7,050 00
7	Jan. 27, 1915	B	7 00	400	3,076 00
8	Feb. 4, 1915	B	10 58	390	4,128 20
9	Feb. 6, 1915	H	7 11	390	2,772 90
10	Feb. 20, 1915	C	11 54	370	4,369 80
11	Mar. 1, 1915	S	6 92	850	2,491 20
12	Mar. 5, 1915	A	15 00	350	5,250 00
13	Mar. 6, 1915	H	7 05	350	2,467 50
14	Mar. 20, 1915	B	15 00	330	4,950 00
15	Mar. 25, 1915	C	15 00	320	4,800 00
16	April 24, 1915	F	8 08	290	2,362 40
17	April 28, 1915	K	7 00	270	2,076 30
18	May 19, 1915	C	7 00	240	1,645 60
19	June 1, 1915	F	10 90	220	2,398 00
20	June 1, 1915	A	6 73	220	1,480 60
21	June 7, 1915	L	12 50	220	2,750 00
22	June 8, 1915	T	7 31	210	1,535 10
23	June 9, 1915	A	6 73	210	1,413 80
24	June 11, 1915	P	11 54	210	2,423 40
25	June 17, 1915	T	13 46	200	2,692 00
26	June 24, 1915	L	7 00	190	1,461 10
27	June 28, 1915	T	9 61	190	1,825 90
28	June 30, 1915	Coccyx broken	7 33	180	1,319 40

Part IV

**REPORT OF BUREAU OF MEDIATION AND
ARBITRATION**

[167]

REPORT OF THE THIRD DEPUTY COMMISSIONER

(IN CHARGE OF BUREAU OF MEDIATION AND ARBITRATION)

To the Industrial Commission:

I have the honor to submit the following report of the operations of this Bureau for the year ending September 30, 1915.

The number of industrial disputes recorded for 1915 is 104. This is the smallest number ever recorded in the Bureau. The number of persons directly involved is 53,855, indirectly 2,407. The total number of working days lost by those directly involved is 829,395, indirectly involved, 39,443. The number of working days lost by those directly involved in strikes recorded in the year ending September 30, 1914, was 936,789, indirectly, 489,329. Forty-three strikes in 1915 were caused for an increase in wages, 12 for shorter hours, which is more than half the number of disputes occurring during the year. Forty-one strikes were successful, 17 partly successful and 44 failed as compared with 36 successful, 38 partly successful, and 49 failed in 1914.

The Bureau intervened in 49 disputes, arranged 33 conferences, and was successful in adjusting 27 disputes. Twelve requests were received for intervention. One dispute concerning piece work prices in a shoe factory in Brooklyn was adjusted by arbitration on request of both parties. A mediator of the Bureau acted as arbitrator.

Of the strikes occurring in 1915, 33 were in the building trades, 27 in the metal and machine trades, 15 in the clothing industry, 8 in transportation, and 5 in the papermaking industry. Two serious strikes occurred in public service corporations, the Auburn & Syracuse Electric Railroad and the United Traction Company of Albany.

The strike on the Auburn & Syracuse Railroad was caused by a jurisdictional dispute between the Amalgamated Association of Street and Electric Railway Employees, the Brotherhood of Locomotive Engineers, and the Order of Railroad Conductors. The timely intervention by the Commissioner of Labor resulted in the

matters in dispute being referred to an arbitration board. It prevented what might have been a complete tieup of all the traction lines in Syracuse, Rochester and interurban lines in that vicinity. The strike on the United Traction lines was caused by a change in the manner of discipline of employees when charged with violations of the company's rules. The strike lasted four days, completely tying up the entire system and inconveniencing some 250,000 people in Albany, Troy, Cohoes, Watervliet and vicinity. An agreement was reached whereby the disputed points were to be decided by an arbitration board. Three days of inconvenience could have been saved to the public, regardless of the wages of the men and the profit to the company, if the request for arbitration made by the Bureau's representative at the conference held between the representatives of the company and the men the first day the strike occurred, had been granted.

The next important strikes were in the clothing industry, the majority occurring in New York City. Three thousand ladies' garment workers were out for 28 days for an increase in wages and union recognition which resulted in a compromise. Five thousand garment workers were out 15 days for an increase in wages and a 48-hour week. The strike was successful. There were 28,628 involved in disputes in this industry, losing 314,328 days.

Of the 33 strikes occurring in the building industry, only a few involved any great number of employees. In Rochester 600 painters went on strike for an increase in wages and after 27 days a compromise was effected. In New York City 3,000 plasterers and 2,000 laborers lost 18 days in their strike for an increase in wages which they settled by compromise. In this industry 8,297 employees were involved causing a loss of 148,539 working days.

In the metal trades 27 strikes occurred. The most serious of these was with machinists and molders. At Ilion 1,092 went on strike for an increase in wages. After 7 days they returned to work agreeing to try out a schedule proposed by the company. In Brooklyn 850 metal workers struck for a 48-hour week and an increase in piece work prices. After 2 days on strike they were granted the 48-hour week, the piece prices to be adjusted later. Seven hundred machinists went on strike in New York City for an 8-hour day and after 18 days gave up the strike as lost. In

Colonie 221 molders struck, contending some of their men were discharged for joining the molders' union. The company contended it was for lack of orders, and not discrimination. After being out 39 days they returned to work. At Elmira 238 machinists went out for the signing of a trade agreement, and after 78 days returned unconditionally. Four hundred ninety-eight machinists struck at Dunkirk, dissatisfied with piece prices. After 6 days they returned with a guarantee of the company they would not make less than four dollars per day. At Buffalo 240 steel workers went on strike for the removal of the superintendent and the adjustment of working conditions. After 73 days they returned to work, the superintendent was retained and other conditions adjusted. Three hundred fifty chandelier makers in New York City struck for an increase in wages and for reduction in hours from a 59 to a 50-hour week, and recognition of the union. After 10 days they returned to work and the hours were reduced to 53 per week. In the metal industry 9,986 men were involved, losing 155,843 days.

Eight strikes occurred in transportation, 3 of which were in New York City among the longshoremen for an increase in wages, involving 2,390 employees. One thousand five hundred forty-two motormen and conductors were involved in the strike of the United Traction Company and 148 in the strike of the Syracuse & Auburn Railroad Company. Four thousand eight hundred and ninety were involved in disputes in transportation, losing 28,644 days.

In the paper and pulp industry 5 strikes occurred. These were in the vicinity of Watertown for an increase in wages and the signing of a closed shop agreement. After 85 days on strike an adjustment was reached. Two weeks after work had been resumed, another strike occurred, the strikers contending the employers failed to live up to the agreement that terminated the first strike. In this industry 675 employees were involved, losing 55,620 working days.

In the leather and rubber goods industry 4 strikes occurred, involving 1,181 employees with a loss of 50,694 days. Three were for an increase in wages and one against the discharge of an

employee. Three failed and one for an increase in wages was successful.

In the wood manufacturing industry 3 strikes occurred, 207 employees being involved. Two were for a reduction in hours and one for the reinstatement of a discharged employee. A compromise was reached in the demands for a reduction in hours. The strike failed for the reinstatement of a discharged employee with a loss of 2,223 working days.

In the food products industry 2 strikes occurred, involving 850 workers for an increase in wages. One strike of 800 employees failed and the strike of 50 employees was successful. The number of working days lost was 10,550.

Two strikes occurred in the clay and glass industry. One at Haverstraw, involving 1,500 brickmakers, who struck against an increase in output. Five hundred glass cutters in Brooklyn struck for an increase in wages. Both strikes failed. Two thousand employees were involved and 100,800 working days lost.

The tables appended herewith give essential figures for comparison with previous years.

FRANK BRET THORN,
Third Deputy Commissioner.

COMPARISON OF INTERVENTIONS, 1914-1915

	1914	1915*
Number of disputes in which intervention occurred.....	62	49
Number of requests received for intervention.....	20	12
Number of disputes in which intervention was successful.....	41	27
Number of disputes in which intervention was unsuccessful.....	21	22
Number of interventions before strikes.....	11	4
Number of disputes in which conferences were arranged.....	37	33
Number of disputes settled by mediation with parties separately.....	9	....
Number of disputes settled by arbitration.....	4	3
Number of public investigations conducted.....	1	1

COMPARISON OF DISPUTES, 1912-1915

	1912	1913	1914	1915
Number of strikes and lockouts.....	184	268	123	104
Employees involved { directly.....	57,340	286,180	61,182	53,855
indirectly.....	34,851	18,121	3,716	2,407
Aggregate days of working time lost.....	†1,512,234	†7,741,247	†1,426,118	†868,838

* Particulars of interventions in 1915 are given in the table which is appended to this report.

† To end of all disputes.

TRADES AFFECTED

	NUMBER OF DISPUTES		NUMBER OF WORK- ING DAYS LOST	
	1914	1915	1914*	1915
1. Stone, clay, glass products.....	2	2	1,070	100,800
2. Metals, machines, conveyances.....	19	27	203,473	154,143
3. Wood manufactures.....	2	3	83,460	2,223
4. Leather and rubber goods.....	11	4	125,162	50,694
5. Chemical, oils, paints, etc.....	....	1	.....	1,625
6. Paper and pulp.....	....	5	.....	55,620
7. Printing and paper goods.....	2	.....	2,655	.....
8. Textiles.....	5	2	97,957	1,672
9. Clothing, millinery, etc.....	16	15	152,812	314,328
10. Food, liquors, tobacco.....	7	2	26,174	10,550
11. Water, light, power.....	....	.....	.....	.....
12. Building industry.....	38	33	141,866	148,539
13. Transportation.....	17	8	36,604	28,644
14. Trade.....	2	.....	1,955	.....
15. Hotels, restaurants, etc.....	....	.....	.....	.....
16. Professions.....	2	.....	15,899	.....
17. Public employment.....	....	.....	.....	.....

PRINCIPAL CAUSE OR OBJECT OF DISPUTES

	NUMBER OF DISPUTES		NUMBER OF WORK- ING DAYS LOST	
	1914	1915	1914	1915
Increase in wages.....	45	43	288,229	380,236
Reduction in wages.....	5	2	17,114	37,504
Shorter hours.....	5	12	84,213	96,587
Longer hours.....	1	.....	500	.....
Trade unionism.....	46	17	463,326	204,366
Particular persons.....	12	14	30,981	97,649
Working arrangements.....	5	4	2,830	48,690
Payment of wages.....	....	3	.....	1,526
Sympathetic.....	1	1	1,524	168
Miscellaneous.....	3	6	370	52,112

RESULTS OF DISPUTES

	NUMBER OF DISPUTES	
	1914	1915
Strikes successful.....	36	41
Strikes partly successful.....	38	17
Strikes lost.....	49	44

METHOD OF SETTLEMENT OF STRIKES WON OR COMPROMISED

	NUMBER OF DISPUTES	
	1914	1915
Direct negotiations between parties.....	44	42
Mediation by State Bureau.....	24	15
Mediation by other agencies.....	2	1
Arbitration.....	4	2

* The figures in the above table showing working days lost in 1914, include only time lost up to and including September 30, 1914.

TABULAR SUMMARY

LOCALITY	Trade involved	Date of strike (actual or threatened)	Number of employees affected	Date of intervention
Albany.....	Electricians.....	May 17, 1915	80	May 24 to Sept. 13, 1915
Albany.....	Motormen and conductors....	Sept. 6, 1915	1,542	Sept. 6, 1915
Albany.....	Building trades.....	Sept. 18, 1915	40	Sept. 20, 1915
Blasdell.....	Iron and steel workers.....	April 30, 1915	360	June 15, 1915
Buffalo.....	Building trades.....	Oct. 31, 1915	350	Oct. 22, 1915
Canton.....	Molders.....	May 25, 1915	429	May 25, 1915
Dunkirk ..	Machinists.....	Aug. 30, 1915	518	Sept. 1, 1915
Elmira.....	Machinists.....	May 6, 1915	333	May 4, 1915
Haverstraw.....	Brickmakers.....	June 22, 1915	1,500	June 25, 1915
Ilion.....	Machinists.....	Aug. 2, 1915	1,193	Aug. 5, 1915
Jamestown.....	Machinists, etc.....	Aug. 10, 1915	130	Aug. 21, 1915
Mt. Vernon.....	Raincoat makers.....	Feb. 23, 1915	28	Mar. 3, 1915
Massena.....	Laborers.....	July 31, 1915	600	Aug. 2, 1915
New York City.....	Chandelier makers.....	Oct. 8, 1914	700	Oct. 9, 1914
New York City.....	Umbrella makers.....	Oct. 20, 1914	400	Oct. 31, 1914
New York City.....	Chandelier makers.....	Nov. 30, 1914	60	Nov. 30, 1914
New York City.....	Chandelier makers.....	Threatened	40	Jan. 5, 1915
New York City.....	Smoking pipe makers.....	Threatened	65	Feb. 11, 1915
New York City.....	Tailors.....	Feb. 10, 1915	70	Feb. 19, 1915
New York City.....	Chandelier makers.....	Mar. 8, 1915	20	Mar. 11, 1915
New York City.....	Waist makers.....	Mar. 22, 1915	130	April 22, 1915
New York City.....	Smoking pipe makers.....	Mar. 25, 1915	125	April 1, 1915
New York City.....	Ladies' waist makers.....	April 27, 1915	50	April 28, 1915
New York City.....	Laundry workers.....	May 1, 1915	200	May 7, 1915
New York City.....	Jewelry workers.....	May 14, 1915	104	May 25, 1915
New York City.....	Longshoremen.....	July 20, 1915	1,800	July 22, 1915
New York City.....	Machinists.....	Aug. 2, 1915	700	Aug. 2, 1915
New York City.....	Embroidery.....	Aug. 24, 1915	500	Aug. 24, 1915
New York City.....	Milk wagon drivers.....	Sept. 6, 1915	90	Sept. 7, 1915
New York City.....	Longshoremen.....	Sept. 17, 1915	510	Sept. 18, 1915
New York City.....	Jewelry workers.....	Sept. 20, 1915	54	Sept. 28, 1915

OF INTERVENTIONS

Result of intervention	Result of strike
Conference arranged on May 24th. Employers agreed to submit matters in dispute to arbitration. Strikers refused. September 13th another conference was arranged, arbitration agreed upon. Later electricians refused to submit to arbitration.	Strike partly successful. Intervention requested.
Conference arranged between representatives of the company and union. No agreement reached. Another conference arranged on the 10th by the Chamber of Commerce. Dispute was submitted to arbitration.	Strike successful.
Conference arranged between general contractor and committee from building trades. All returned to work except the carpenters who returned later.	Strike successful. Intervention requested.
Efforts to arrange a conference were unsuccessful. Manager refused to treat with union officials or committee from strikers. Vice-president met a committee of strikers later which resulted in settlement.	Strike partly successful.
Efforts to arrange a conference were unsuccessful. Employers refused to meet or treat with men on strike.	Strike failed. Strikers returned to work.
Conference arranged between superintendent and committee of strikers resulted in settlement.	Compromise.
Conference arranged between general manager and committee of strikers resulted in settlement.	Strike partly successful.
Efforts to arrange a conference were unsuccessful. The president of the company agreed to meet a committee of employees, but the union insisted he meet them as a union committee.	Strike failed. Intervention before strike; intervention requested.
Several efforts to arrange a conference were unsuccessful. Employers insisted on output established.	Strike failed. Strikers secured work elsewhere.
Conference arranged between general manager and committee of strikers which resulted in settlement.	Compromise.
Efforts to arrange a conference were unsuccessful. Employer refused to meet a committee of strikers or to re-employ any that were members of the union.	Strike failed. Some returned, others secured work elsewhere. Intervention requested.
Conference arranged between representatives of the company and union officials resulted in no settlement.	Strike failed.
Conference arranged between superintendent and committee of strikers resulted in settlement.	Strike successful.
Conference arranged between representatives of manufacturers and union officials resulted in settlement.	Compromise.
Efforts to arrange a conference were unsuccessful. Employers refused to meet strikers.	Strike unsuccessful.
Conference arranged between representatives of company and union resulted in settlement.	Strike successful.
Conference arranged between representatives of company and union resulted in settlement.	Successful; intervention requested.
Conference arranged between representatives of company and union resulted in settlement.	Successful; signed trade agreement. Intervention requested.
Efforts to arrange a conference failed. Employers refused to meet strikers.	Strike failed. Other employees secured.
Efforts to arrange a conference were unsuccessful. Employer refused to meet or treat with strikers.	Strike lost. Strikers returned to work.
Conference arranged between representatives of company and strikers. No settlement reached.	Strike failed. Strikers returned to work.
Efforts to arrange a conference failed. Employer refused to meet or treat with strikers.	Strike lost. Strikers returned.
Arranged a conference between representatives of company and union officials which resulted in settlement.	Dispute to be arbitrated.
Conference arranged between employers and union officials resulted in settlement.	Compromise.
Conference arranged between representatives of company and union officials resulted in settlement.	Compromise.
Conference arranged between representatives of company and strikers resulted in settlement.	Successful.
Efforts to arrange a conference were unsuccessful. Employers refused to meet or treat with strikers.	Strike failed.
Conference arranged between representatives of employers and union officials resulted in settlement.	Strike successful.
Efforts to arrange a conference failed. Employer refused to meet or treat with strikers.	Strike was unsuccessful. Strikers returned.
Arranged a conference between representatives of company and strikers which resulted in settlement.	Compromise.
Conference arranged between representatives of employers and union officials resulted in settlement.	Compromise. Trade agreement signed.

TABULAR SUMMARY OF

LOCALITY	Trade involved	Date of strike (actual or threatened)	Number of employees affected	Date of intervention
New York City.....	Longshoremen.....	Sept. 25, 1915	350	Sept. 26, 1915
New York-Brooklyn...	Glass cutters.....	Oct. 3, 1914	500	Oct. 19, 1914
New York-Brooklyn...	Cabinet makers.....	Nov. 6, 1914	57	Nov. 9, 1914
New York-Brooklyn...	Building trades.....	Nov. 2, 1914	150	Dec. 1, 1914
New York-Brooklyn...	Shoe workers.....	Nov. 9, 1914	672	Nov. 13, 1914
New York-Brooklyn...	Hat makers.....	Aug. 13, 1915	40	Aug. 21, 1915
New York-Brooklyn...	Magneto workers.....	Threatened	850	Sept. 17, 1915
Rochester.....	Shoe cutters.....	Mar. 18, 1915	25	April 21, 1915
Rochester.....	Painters.....	April 1, 1915	600	April 22, 1915
Rochester.....	Electrical workers.....	July 1, 1915	66	July 3, 1915
Syracuse and Auburn...	Motormen and conductors...	April 8, 1915	200	April 9, 1915
Watertown.....	Paper makers.....	April 12, 1915	22	April 28, 1915
Watertown, Norfolk and Deferiet.	Paper makers, etc.....	May 8, 1915	804	June 10 to Aug. 4, 1915
Watertown, Norfolk and Deferiet.	Paper makers, etc.....	Sept. 2, 1915	800	Sept. 8, 1915
Watervliet.....	Molders.....	Feb. 19, 1915	52	Feb. 20, 1915

INTERVENTIONS—(Continued)

Result of intervention	Result of strike
Conference arranged between representatives of company and strikers resulted in settlement.	Compromise.
Efforts to arrange a conference were unsuccessful. Manufacturers' Association refused to meet strikers.	Strike failed. Shops closed.
Conference arranged between representatives of company and union resulted in settlement.	Compromise.
Efforts to arrange a conference were unsuccessful. Employers refused to meet strikers.	Strike failed. Strikers' places filled.
Efforts to arrange a conference failed. Employers refused to meet strikers.	Strike failed. Some returned. Places of others filled with new employees.
Conference arranged was unsuccessful. Employer refused to employ those on strike.	Strike failed.
Arranged a conference between representatives of company and union officials which resulted in settlement.	Successful intervention requested.
Conference arranged between employer and strikers was unsuccessful.	Strike lost in intervention requested.
Conference arranged between master painters and union officials resulted in settlement.	Compromise.
Efforts to arrange a conference failed. President of company refused to meet or treat with strikers.	Strike lost. New employees secured.
Commissioner of Labor acting as mediator was successful in settlement.	Intervention requested.
Conference arranged between general president of union and representatives of company was unsuccessful.	Dispute referred to arbitration.
Conference arranged between representatives of companies and union officials resulted in settlement.	Strike failed. New employees secured.
Public investigation by Industrial Commission. Recommendations rejected by strikers.	Intervention requested.
Efforts to arrange a conference failed. Employer refused to meet strikers.	Strike was unsuccessful. Returned to work under old conditions. Intervention requested.
	Strike failed.
	Strike failed.

Part V

**REPORT OF BUREAU OF STATISTICS AND
INFORMATION**

[79]

(1) REPORT OF CHIEF STATISTICIAN

(IN CHARGE OF BUREAU OF STATISTICS AND INFORMATION)

To the Industrial Commission:

The following is submitted for the purpose of "a report of the operation" of this Bureau for the year ended September 30, 1915, which seems to be required by section 46 of the Labor Law.

PUBLICATIONS

This Bureau is not occupied directly with the administration of laws as are other bureaus in the Department. Its function is that of furnishing information, either to the Department for its administrative work, or to the general public. The principal fruits of its work, though not all, are to be found in the publications of the Department. Accordingly, as a brief resumé of the principal completed work for the fiscal year 1915 the following publications which were issued by this Bureau within that year are here referred to:

Bulletin No. 67 — International Trade Union Statistics (24 pp.).

Bulletin No. 68 — Statistics of Industrial Accidents in 1912 and 1913 (175 pp.).

Bulletin No. 69 — Idleness of Organized Wage Earners in 1914 (41 pp.).

Bulletin No. 70 — New York Court Decisions Concerning Labor Laws from October, 1913, to January, 1915 (118 pp.).

Bulletin No. 71 — Government Labor Reports, October, 1913, to May, 1915 (29 pp.).

Bulletin No. 72 — New York Labor Laws of 1915 (67 pp.).

Bulletin No. 73 — Idleness of Organized Wage Earners in the First Half of 1915 (14 pp.).

Bulletin No. 74 — Statistics of Trade Unions in 1914 (146 pp.).

Second Annual Industrial Directory of New York (787 pp.).

The Labor Law, Industrial Code and Workmen's Compensation Law (280 pp.).

The Labor Laws of New York State (395 pp.).

The reporting of Industrial Diseases (a reprint of a twenty-five page pamphlet published in 1912).

Besides such special publications, there is also to be noted in this, as in other, years, material incorporated in the report of other bureaus, especially statistics of inspection work and compensated accidents. Mention should also be made of a series of wall charts showing the organization and work of the Department of Labor which was prepared by this Bureau as a part of the exhibit of the Department at the Panama Pacific Exposition.

Finally, this report affords opportunity for publication of the results of a special investigation of canneries, and of two statistical reports, one relating to children's employment certificates and the other to reported industrial diseases, all of which, because of their close relation to problems of inspection work, may appropriately be published here.

Besides recapitulating publications as chiefly embodying results of completed work, it is desired at this time only to note the two changes in the work of this Bureau resulting from the consolidation of the former Department of Labor and Workmen's Compensation Commission, an important inter-state movement in which the Bureau is assisting, and two changes in general organization effected during the year.

ACCIDENT STATISTICS

The consolidation of the Department of Labor and Workmen's Compensation Commission under the new Industrial Commission necessitated extensive changes in the work connected with accident statistics. When the consolidation occurred, no statistical bureau having been organized in the Workmen's Compensation Commission, the work connected with compensation, as well as other accident statistics, naturally fell to this Bureau to which it was assigned by the new Industrial Commission.

First of all, a radical change had to be made with respect to accident reporting. Prior to the consolidation, all accidents in manufacturing, building, mining and quarrying industries were being reported both to the Department of Labor and the Workmen's Compensation Commission. Such duplicate reporting of practically the same information, even though it went to different departments, was recognized as an excessive burden on employers before the consolidation.* With the consolidation such duplication

* Tentative steps toward minimizing that evil had been taken before the consolidation.

ceased, of course, to be necessary. Its elimination was accomplished by doing away with reporting to the Bureau of Inspection, as in the former Department of Labor, and continuing one report to the Bureau of Workmen's Compensation, which succeeded the former Workmen's Compensation Commission. One effect of this change, of some significance from the statistical point of view, was to cause the suspension, for the time being at least, of some follow-up correspondence, and special investigations by inspectors, which had been previously carried on and which served to increase the completeness and accuracy of reports, particularly as to causes of accidents. And at this writing the problem of securing in the reports sufficient fullness and accuracy concerning causes to afford the statistical information which is desirable with a view to the study of prevention, remains as one still to be solved.

But in the second place, the consolidation brought large changes in the scope of the accident statistics to be compiled. On the one hand, was an extension as to industries to be covered. Not only manufacturing, building, mining and quarrying, from which alone reports were required by the Labor Law, but many other industries under the Compensation Law are now to be covered. On the other hand, there was an extension of information about each accident, from such as was designed chiefly to throw light on causes, to fuller information relating to results and cost of compensation which are of principal importance from the point of view of compensation and concerning which not only more but far better information becomes available under a compensation law. As a rough indication of the enlargement of work involved in these changes it may be noted that the first year's experience under the Compensation Law shows, as compared with experience under the Labor Law, two and a half times as many accidents reported and that compensated accidents alone equal in number nearly one-half the former total of reported accidents, for which compensated accidents several times as many items must be covered and examination of many times the amount of material must be made, in each case, as were required in connection with accidents as formerly reported.

But while noting the increase in work involved, the great opportunity in this field now open in this state should not be overlooked.

The importance of this opportunity is revealed only when it is recalled that New York is the leading industrial state in the Union and has the most advanced compensation law. The most important accident experience in this country, therefore, is here to be recorded, and made available for the guidance not only of New York, but of other states as well. It is only proper to record here the fact that in the face of the large increase in material there has been no increase in force for the handling thereof. This discrepancy is aggravated by the fact that as the consolidation did not occur until about the middle of 1915, there was then accumulated practically a year's compensation experience, so that tabulation of compensation statistics had to be taken up with the work not far from a year in arrears. It would have been highly desirable if there could have been an increase in force at least of temporary employees sufficient to catch up on the work. As it is, the situation is being handled as well as possible, by confining attention first of all to compensated accidents only and by the lending of as much aid as possible to the Division of Accidents and Diseases from other divisions, which means, of course, postponement of other work in such divisions, but this is deemed advisable in view of the necessity of bringing the work on accident statistics up to date as soon as possible. Present prospects are that the handling of compensation accidents alone will be all that is possible for some time to come. It is to be regretted that this prospect makes it uncertain when tabulations of non-compensated accidents (those causing disability of two weeks or less) can be undertaken, because statistical information concerning that class of cases is important from several points of view.

INSURANCE POLICY FILING UNDER THE COMPENSATION LAW

At the time of the consolidation of departments there was transferred to this Bureau from the former Compensation Commission, the work connected with the filing of copies of insurance policies as required by section 50 of the Compensation Law. The reason for this was the hope that it might be possible to utilize these policy records for the purpose of verifying industry classifications in connection with statistics of compensation.

This was done before there was opportunity for a careful examination of the records for statistical purposes, prompt removal of the records from former rented offices outside the capitol having been necessary at the time of consolidation. Since then the possibilities of these records for statistical purposes have been looked into, only, however, to make it clear that the existing records would not be of service in this direction. In saying this it should be emphasized that this is due to the present condition of the records. If they could be made complete and secured in somewhat different form they might be very valuable for statistical purposes. To make them thus valuable would, however, involve considerably larger resources than are now available for such work,* or than it is likely can be made available therefor. Without such development of the records they are of service at all only in connection with the work of the Compensation Bureau. To leave them here is, therefore, quite illogical, and moreover results in confusion and delay in the transaction of business connected with them, because these records come first to the Bureau of Workmen's Compensation at its main office in New York, are then transferred to this Bureau's office at Albany, to which again the former Bureau must refer for information from the records, to say nothing of the confusing effect likely to be produced upon outsiders by correspondence relating to the filing of records received from a Bureau not related in their minds to the administration of the Compensation Law.

In view of this situation, therefore, it is urgently recommended that the work connected with filing of policy records be transferred to the Bureau of Workmen's Compensation.

INTER-STATE UNIFORMITY IN ACCIDENT STATISTICS

During the last few years, coincident with the rapid extension of compensation laws under which the importance of accident statistics is greatly increased, a growing movement in the direction of standardization and uniformity in such statistics has developed. It is proper to note here that this Bureau is actively assisting in

* When these records were transferred to this Bureau, the one employee then doing work on them was also transferred to this Bureau (being attached to the Division of Accidents and Diseases) and this was all of the help which could be regularly assigned to this work since.

this movement, being represented on all of the committees and conferences concerned in it, including the Committee on Statistics and Compensation Insurance Cost of the International Association of Industrial Accident Boards; Committees on Standard Classifications of Industries, and of Causes of Accidents, appointed by the United States Commissioner of Labor Statistics; the Accident Statistics Committee of the National Safety Council; and the Committee on Compensation Statistics of the Casualty Actuarial and Statistical Society of America.

Participation in this movement is desirable not only that the New York Industrial Commission may take its proper place in an effort whose object is of great importance for most intelligent and effective administration of compensation and safety laws, in all the states, but also because of the direct gain for the work of this Bureau through practical application thereto of classifications and methods to the working out of which many experts have contributed.

ORGANIZATION

The general organization of the Bureau was changed during this year by the designation by the Industrial Commission of the Division of Printing and Publication as a separate bureau of the Department with assignment of supervisory responsibility therefor to another Commissioner than the one under whose supervision the rest of the Bureau falls. This virtually separated that division from this Bureau and represents to that extent a modification of section 63 of the Labor Law, which relates to this Bureau.

During the year coincident with the removal of the Department of Labor to new offices in the capitol, the Division of Industrial Directory was transferred from the sub-office in New York to the main office of the Bureau at Albany for reasons of economy of office room and closer co-ordination of work between divisions.

L. W. HATCH,
Chief Statistician.

(2) REPORT OF INVESTIGATION OF CANNERIES

PEA CANNERIES

The Canner and the Farmer

Most of the peas packed by the canners visited are grown in lots of less than five acres each. The farmer who contracts for more than ten acres is the rare exception. One farmer, owning several farms, had a contract for one hundred acres this year. This was so unusual that his reputation extended to canneries throughout the central New York district. The reasons for the relatively small acreage grown by one farmer are as follows:

(1.) Peas are not grown successively on the same ground and, according to the statements of farmers and canners, should not be grown upon the same ground oftener than once in four or five years. Just why peas cannot be grown successively upon the same ground no one seemed to know. Whether or not the nourishment taken from the soil by peas can be replaced by commercial fertilizer at a cost which would permit the farmer to follow peas with peas had not occurred to anyone interviewed. No one knew what it is that peas take from the soil. "Peas poison the land" was a common answer to my inquiry. Yet the same farmers are unanimous in their statement that any other crop following peas is almost sure to be unusually heavy. One relatively large farmer said that peas take practically nothing from the soil but "get all their nourishment from the air instead." At any rate, peas are not grown upon the same soil oftener than once in four or five years. This necessitates a shift of pea acreage every year and at times finds the farmer without any land which he can use for that purpose.

(2.) Few farmers have the mechanical equipment necessary to harvest a large acreage of peas. This does not apply to the planting, since one man can easily plant eight acres per day. And after the crop is planted it requires no further care until it is ready to be harvested. But when the road agent of the canner asks to have the peas delivered the farmer has a minimum amount of time to market his crop. An average year will yield him four or five loads per acre. If he lives four miles or more from the cannery he will usually haul but two loads per man per

day. This means that he must have a relatively complete equipment to be able to harvest even two acres of peas of one kind. At times he exchanges work with his neighbors; but this plan is not always reliable, especially if his neighbors have peas ripening at the same time. Then, too, as happened this year, hay is often ready just when peas are called in. It should be noted, however, that few farmers know how to deliver peas most economically. The loads hauled by the hundred-acre man average three and even four times as large as those hauled by his neighbors over the same roads.

(3.) With most farmers the growing of peas is a side line. This is especially true of the dairy farmers who tend their peas when they have nothing else to do. In such cases they do not get into the field until late in the morning when the peas are ready to cut and they quit working with peas in the afternoon in time to do their evening's dairy work. This means that a relatively small acreage of peas can be cared for in the short days given to this work.

(4.) Perhaps the most important reason why pea acreage is small per farmer is the risk involved. In the first place the farmer must buy at least four bushels of seed per acre at a cost of three dollars per bushel usually. His minimum cash outlay — seed only — is at least \$12 per acre. If he uses any commercial fertilizer his initial cash outlay amounts to \$18 or \$20 per acre. Occasionally a farmer obtains for his crop only about enough to pay his initial cash outlay. He has no fodder and receives no payment for his labor and that of his team in planting and harvesting his crop. On the other hand, if he plants corn his initial cash outlay does not exceed seventy-five cents per acre. If his corn crop is a complete failure — a catastrophe much more rare than a failure of pea crop — he at least loses no initial cash payment and besides he has his fodder for ensilage.

Occasionally a farmer obtains \$100 per acre above his seed on two to four acres of peas. He is satisfied with \$50 per acre, which — although he does not so calculate it — is barely payment for his labor and a fair interest return on his capital. On the whole, however, the conservative mind of the farmer remem-

bers the less than \$50 crop longer than he remembers the \$100 crop. And when one man, even in a generally prosperous season, fails to get a satisfactory crop all his neighbors are impressed with the unreliability of pea farming, whatever may have been the cause of the one man's crop failure.

(5.) Finally, many causes contribute to make particular farmers dissatisfied with their contracts. A personal grievance against a cannery superintendent or a feeling that a mistake has been made in weighing his crop may cause a farmer to refuse to renew a contract. A change in the form of the contract, even though it may prove to be advantageous to the farmer, may cause some to refuse to sign a contract until it has been tried by others.

In a year of normal acreage most canners find it necessary to make a personal canvass of the farmers to secure the renewal of their contracts. For the reasons above stated there is a considerable shifting of farmers from year to year, amounting in extreme cases to one-third or more of the acreage. Because of this shifting acreage and the difficulties the canners encounter in contracting the amount of peas desired, many of them hesitate to hold the farmers to the letter of their contracts. The canners are practically unanimous in their statements that any new burdens upon the farmer would cause him to refuse contracts altogether.

In other words, custom is the contract to which the farmer expects to adhere. The rate which he receives varies but little from year to year. The system of payment varies from cannery to cannery but not from year to year at any one cannery. The condition in which the peas are delivered is guided by custom, contract provisions to the contrary notwithstanding. So with the planting of the peas: although some contracts contain provisions regulating the planting, about the only regulation adhered to is the division of the available acreage between early and late peas. In some cases even this provision is waived and the canner permits the farmer to select the varieties which he thinks most profitable. Except for the division of acreage, which is apparently quite generally practiced, the farmer uses his own judgment about planting. This means that he plants when he thinks his soil is ready.

Furthermore, each farmer usually plants all his acreage at once, operating his drill continuously from the time he first starts to plant until he finishes his planting. If he has more than one variety of seed he plants the second kind as soon as he has cleaned his drill of the first and so on until his planting is completed. Since a farmer can plant eight acres in one day and since nearly all of the farmers grow less than eight acres each, nearly every farmer plants his entire acreage, early and late peas, in one day. The absence of regulations makes it possible for all farmers in a given community to plant all their acreage on the same day. And if their soil is similar, harvest congestion is to be expected under such conditions.

In exceptional cases canners are practicing some means of regulating the planting of their contracted crops. For example, one canner who obtains a part of his peas from a hilly upland and a part from a lower valley tries to give out his seed at such times as will, under average conditions, cause the harvesting of the crop from these two sections to occur at different times. A few canners undertake to advise their farmers as to the time of planting but they generally assume that the farmer knows at least as much about the time of planting as they do and hence leave the matter entirely to his discretion.

Because of the peculiarities of weather conditions it is not always certain that seed planted later than a previous planting will mature correspondingly later, even though the seed be of the same variety and the soil be the same. If the soil and the weather are not in proper conditions to cause the seed to germinate, one lot of seed planted several days later than another lot may germinate at the same time as the first. In such case, of course, the first planting has no advantage over the second. But where the first lot of seed actually germinates before the second lot is planted it does have a decided advantage. Even then succeeding weather conditions may ripen the two lots at the same time; but this is not nearly so apt to occur as in the former case where the first lot obtained no start over the second. In at least one conspicuous case the canner has taught his farmers to follow the second system and is obtaining results which warrant its more general use.

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In one of the largest pea canneries of the state, having under contract this year approximately 1,100 acres, the canner requires every farmer who grows as much as two acres of one variety of peas to make sure that one-half of such acreage has peas already come through the ground before the other half is planted. While hesitant at first to accept contracts on this basis the farmers have now become accustomed to this plan and make little objection to it. In considering the bearing of this system upon the hours of labor of women in the canneries it is important to note that this factory has had perhaps a smaller number of long days than any other large canner of peas visited; and the number of times it has violated the hours established by the cannery permit this season is negligible. And this, too, in the face of a pack of peas which is at least as much above normal as that of other pea canners.

This case is a conspicuous exception to the general rule that canners do not attempt to regulate the planting of peas. Other canners profess ignorance of the existence in this state of such a plan. Some even denied the existence of such a system, saying that no farmer in New York State would tolerate such dictation. There is no question but what the introduction of such a plan or of any other change would encounter the opposition of custom-bound farmers. It might indeed cause the refusal of some farmers to renew their contracts. Nevertheless, by taking advantage of favorable conditions, there is little doubt but that such changes can be gradually introduced.

Next year would be a favorable year for such a change for several reasons: (1.) A concerted effort among canners, in anticipation of poor market conditions this year, has resulted in a 20 per cent reduction of acreage from that used last year. (2.) This removed the usual necessity of personal solicitation of the farmers by the canners since the latter took only what acreage was offered them at their offices. (3.) The double effect of this condition has been: (a) to leave a considerable acreage available for peas next year which might have been used for that purpose this year; and (b) to weaken in the minds of the farmer the feeling that the canner is dependent upon him and that the canner must accept the farmer's terms. (4.) The farmers this year have generally prospered from their pea acreage beyond their expecta-

tions for the year. This will cause those who grew peas this year to wish to renew their contracts for next year and will induce their neighbors who had no pea acreage this year to seek contracts for next year. (5.) In spite of the 20 per cent reduction from the acreage of last year the pack of peas this year is approximately 20 per cent larger than that of last year, owing to the increased yield per acre. (6.) Market conditions are such that the canners expect to hold over some of this year's pack rather than sacrifice their product at existing prices. (7.) Peas are sold for the most part on futures so that present indications are that the canners will not seek a large acreage for next year.

For the above reasons it seems quite clear that next year the canners will be unusually free from dependence upon the farmers (the writer recognizes, of course, that there is a sinister side to this statement but he merely accepts conditions as they are) and that at the same time the farmers will be unusually anxious for contracts since, whatever the market conditions, the prices charged to the farmer for seed and the prices paid for his products vary but little from year to year. Hence next year should be a favorable time to introduce changes which will help the canner to better control the harvesting of his crops. In fact a few cases were noted wherein canners expect to make changes in their contracts which, although of a different nature and with different ends in view, they would hesitate to make in a year when they anticipated less freedom from dependence upon the farmers.

No canner desires long hours or late hours. Every canner knows that long hours mean diminishing labor returns and that late hours mean increased overhead costs. There is no denial of the fact that different kinds of soil cause peas to ripen at different times. All admit also that two lots of seed planted a few days apart have a greater chance of maturing at different times than if they were both planted at the same time: and that a second lot planted after the first has germinated has a greater chance of maturing after the first than if it was planted merely a few days after the first lot. The canners are almost unanimous in maintaining that they cannot convince the farmers of these facts; and that if they do not permit the farmer to follow his time-hallowed custom of planting all his seed "when his soil

is ready" they cannot secure the desired acreage. Yet so few of the canners have made any earnest efforts to change this custom to a system which would benefit both canner and farmer that one wonders after all whether the canner is not harder to convince than the farmer.

The success of efforts to regulate the harvesting of peas by regulating the planting would benefit the canner by permitting him to work shorter hours and hence cheapen his overhead and labor costs; by enabling him to operate his factory without incurring the risks involved in violating the law governing the hours of his women; and by raising the quality of his pack since he would lose less through the delivery of more peas in a given time than he can handle. It would benefit the farmer by enabling him to care for a larger acreage of peas with his equipment, since the period of harvesting a given acreage would be extended. Complete success in attempting to so regulate the planting of peas that no periods of congestion will occur in harvesting them is hardly to be expected, although an expert of the Federal Bureau of Plant Industry says: "If the planter could hold up each planting until the previous planting had germinated the control of harvesting would be a comparatively simple matter, provided the character and condition of the soil and the quality and variety of seed were taken into consideration." (Bul. U. S. Dept. Labor, No. 119, p. 25.) At any rate there can be little doubt that considerable can be accomplished in the direction of minimizing the amount of congestion which now occurs at times if the canners will take advantage of favorable opportunities to overcome the prejudices of the farmer against changing his methods of planting peas.

Women in Canneries

Each cannery employs one or more road men who spend their time inspecting the peas contracted for by that factory. These men tell the farmer when his peas are ready for delivery and give him a reasonable time to make his delivery. Such notice is given usually twenty-four to thirty-six hours before the peas are expected at the factory. Usually twice a day — at noon and late in the afternoon — these road men communicate with the fac-

tory and notify the superintendent how many loads of peas have been ordered in for the next day. This determines the time to which the factory will operate on the day when the communications are sent. If the superintendent expects a heavy delivery of peas on the following day he will try to clear his factory that night; if he expects a light delivery he may carry over a considerable quantity of peas.

The road men have little discretion in ordering in peas. When the crop is mature enough for canning it deteriorates very rapidly and it can easily happen that while a road man can find but ten loads that are ready one day, he may have to order in sixty loads the next day to keep the peas from spoiling. The testimony of road men, canners, and farmers is unanimous that at times a single day's delay in leaving the peas in the field would make them too hard for use.

When the peas are ready for delivery they may be cut in the evening for delivery the following morning — especially if the night is cool. The sooner they are threshed upon arrival at the cannery, the better the quality of the peas. If they are not threshed at once they must be spread out as they "heat" very quickly in piles. The viners or threshing machines are tended by men. The viners are started each day two hours or more before the canning proper begins. In the rush periods the vining stations, which are situated away from the cannery, are sometimes started at one or two o'clock in the morning, in order that the women may start work at seven o'clock. The viners at the factory usually start about two hours before the women begin work.

After the peas are shelled they deteriorate more rapidly than before and cannot usually be left over night without causing them to drop from "fancy" grade to "medium" or from "medium" to "standard." All efforts are made to can on a given day all peas that are shelled that day. To so regulate the shelling that the peas shelled could all be canned by a certain hour would mean at times the holding over of a large amount of unshelled peas until the following day. And if such following day happened to be a rush day the entire pack for that day might be below grade in case each load is held until all that preceded it is shelled.

Where two rush days come in succession and a considerable quantity of peas is held over the night between them the canner sometimes holds out the first lot and cans them as "standard," keeping the others as nearly "fancy" as possible.

In the canning of peas relatively few women are employed. The ratio of women to men varies from one to two to one to eight, according to the arrangement of the work in the factory. Perhaps one woman to four men is approximately the most common ratio. With relatively few exceptions the work of the women is confined to three operations: (1.) A few work on the capping line, dropping caps. If the caps are dropped by hand two women are employed to do this work. This is work which requires close attention and while not heavy work it is very exacting. In case an automatic dropper is used only one woman is needed to feed this dropper and to cap whatever cans the dropper misses. An increasing number of the factories are introducing the sanitary can which does away with the capping line operated by women. Where the old capping line is still in use the only reason for employing women to do the work is the saving in the difference between their wages and the wages paid to the men who would be required to do such work.

(2.) In some cases women are employed to inspect the cans after they are sealed to see that no caps are missed by the soldering machine and that no faulty seams have developed in the cans. Men do this work in some factories. Like the cap dropping, this work requires constant attention and is very exacting. Women are sometimes used on this work because they are cheaper than men. In both the work of inspection and in dropping caps the people who do this work are kept later than the other women, as their work is concerned with one of the last processes in the canning of the products. As already noted this work requires a decreasing number of women because of the increasing use of the sanitary cans.

(3.) Most of the women are employed at the sorting tables. After the peas are shelled they are passed through a cleaner which fans the light refuse such as thistle seeds from them. From here the peas are taken to the squirrel-cage grader which separates them

according to size into five grades. Any refuse such as small pebbles, thistle blows, etc., pass through the grader, also according to size. In general, number one peas are cleanest as they come from the grader while number five contains most refuse. Owing to a difference in practice among canners some send the peas from the grader to the blancher and some from the grader directly to the sorting tables. Sooner or later the peas must pass over the sorting tables where all refuse is taken out.

This is hand work and is performed by women. Notwithstanding the statements to the contrary, this work bears no relation whatever to domestic labor. Indeed it is as exacting and requires as close attention as the work done by women in knitting mills, for example. As the peas are brought to the women over a continuous belt, all refuse must be taken out. This requires exacting work with the eyes — often in artificial light — to detect the difference between thistle blows and dark colored peas or between pea shells and light colored peas and equally exacting work with the fingers to catch the refuse before it passes beyond the reach of the worker.

The peas are brought to the women over a continuous belt or table and the refuse must be picked out as the belt moves along. At times when thistles are very numerous the belt is stopped occasionally to allow the women to catch up. Ordinarily they are expected to pick out all refuse as fast as the belt brings it to them. From two to eight women work at each table according to the condition of the peas. Usually more women work at the tables carrying number fives than at any other, because more refuse is to be found in that grade. There is a great difference among canneries as to the number of women at each table. In one cannery, for example, using a double table on number three peas there were but four women employed — making actually but two women to a table. In another cannery using a single table one-half the width of the double table mentioned above, six women were employed on the same grade of peas and, as far as observation could determine, on peas in about the same condition as to the amount of refuse to be removed by the women.

There is a great difference, too, in the conditions under which these women work. Where the blancher is adjacent to the sorting tables, steamy atmosphere and sloppy floors are almost sure to

result. Sometimes, too, the noise of the machinery is very annoying to the women and undoubtedly affects their ability to stand the strain of their work. In addition to the steam from the blanchers, the air is sometimes unnecessarily hot and stuffy, because of inadequate ventilation in the rooms where the women work. In other canneries the sorting tables are so placed as to give the women good air, good light, dry floors, and freedom from the noise of the machinery. There is no reason whatever why this latter condition should not prevail in all canneries.

In some factories suitable seats with adjustable backs are provided for the use of the women at the sorting tables. In others wooden boxes or long backless benches only are supplied. Some canneries furnish rest rooms to their women workers while others do not even furnish a place for women to change their clothes, expecting them to come to the factory prepared for work.

The factories differ in their practices of obtaining women workers. Some employ only local help. Others employ only foreign help, brought in from some nearby city by a padrone and managed under the padrone system. In such cases Italians, Syrians and Poles are used. Rarely are two nationalities worked together. When outside help are used they live in barracks furnished by the canner. The difference in the employment of local and foreign help is based upon several contributing causes which do not require discussion here. One circumstance which is both a cause and a result of the employment of foreign women should be noted, however.

Where local women are employed, especially if the cannery is located in a village or small city, they do not usually depend upon their wages to the extent of feeling the loss keenly if they are unemployed. Most of them do not work for wages at any other work or at any other time of the year. For the most part they are young girls under twenty-one and old women. Since they are not wholly dependent upon their wages for their living, they are at least not dissatisfied if they are not provided with long hours of work every day. In some cases they even refuse to work long hours. And if the cannery has a short day or no work whatever occasionally, these women are not apt to quit their jobs for that reason.

On the other hand, where foreign women are imported and live at the cannery only during the canning season, they are more dependent upon their wages. In many cases, indeed, they are wholly dependent upon their wages. They are not only willing to work long hours, but anxious to do so. They even insist upon long hours and if they are not assured of steady work they become dissatisfied and on occasion quit their jobs. More often the canner takes advantage of their desire to work long hours and sees to it that no objection arises on account of short days and especially short weeks. In order to provide as many hours as possible for the women, the canner maintains a force which will give them a satisfactory day when the average day's delivery of peas is made. When the rush days come the force is not increased and the women are forced to work abnormally long hours. In such cases no effort is being made to obtain local help to take the places of the foreign women in the evenings of the long days nor is any effort being made to obtain extra foreign help for these days.

In a few cases where local women are employed, some form of relief is given the women who would otherwise work long hours. For example, one cannery which employs a few girls under eighteen obtains enough extra women in the evening to take the places of these girls. In another cannery which worked one Sunday, enough extra women were secured to take the places of the regular workers on a day in the following week in order to comply with the one-day-of-rest-in-seven law. *In one conspicuous case a canner in a village of less than 1200 people was able to secure enough extra women to run a special evening shift whenever evening work was required, permitting his regular women employees to rest.*

It is sometimes said that after ten o'clock at night men can be substituted for the women at the sorting tables. In some cases this is being done by canners who wish to operate their factories within the law. Men can do this work, though not as satisfactorily as women. Picking small bits of refuse from a stream of peas requires a deftness of touch which men do not possess. It is doubtful if the men who could be obtained for that work could do either as well or as much in a given time as the women who are now used; in spite of the fact that the men's wages average 50 per

cent more than women's wages. One canner expressed his intention of trying next year to obtain young men to sort peas, doing away with the women entirely. He hoped in this manner to be able to live within the law even at a considerable increase in cost to himself.

In considering the possibility of substituting men for women for night work it should be noted, too, that the men working in the canneries are already working exceedingly long hours, longer, in general, than any of the women work. For example, on a day when the women begin work at eight o'clock in the morning, the men will have been at work at least since six o'clock threshing peas and getting work ready for the women. Sometimes the men start threshing peas much earlier than six o'clock. In addition to the long hours of the men who work in the canneries, most of those who might be shifted to the sorting tables after ten o'clock at night are hardly desirable for the kind of work the women do.

Before leaving this topic it should be noted that there is a great difference among canners: First, in their attitude toward late hours and violation of the law regulating women's hours; and second, in the means which they employ to do away with late hours for women. Perhaps most of the canners would like to obey the law if they could do so without losing profits. Some, of course, would like to obey the law by first having it written to meet their desires; while others are sincere in their efforts to find means of living within the law as it now exists. A few assume the attitude of "business first; if the law reads to the contrary, so much the worse for the law." There is little doubt but that if the present law could be strictly enforced there would be a more active interest displayed by all canners to find means of complying with the law.

Some canners do not violate the law governing the hours of their women employees. This is due in part at least to superior management in the elimination of delays in furthering the canning processes. It is due in part also to the different systems followed by different canners. For example, in some canneries the peas are sorted before they are blanched. This enables the women to finish their work a considerable time before they would if the peas are blanched first as in other canneries. Custom seems to

rule in this process of blanch-sorting or sorting-blanch, as each canner interviewed seemed to be satisfied with the system he employed although few felt sure that theirs was the better system.

It is sometimes said that the work of the women is subject to frequent delays while changing grades of peas or while waiting for peas to be delivered, etc.—thus giving the women considerable rest periods and making the long hours “book” hours rather than actual hours worked. Such delays sometimes occur on days when the farmers are slow about bringing in their peas; but on rush days when women’s hours are longest, all delays are reduced to a minimum. In fact the time lost at such times is negligible.

It has been assumed that some canners contract for a larger acreage than they are equipped to handle during normal hours and consequently that they are forced to work abnormally long hours in order to care for the excess acreage. It would be difficult to prove this assumption by statistics such as to figure from a normal capacity of acreage per line since there is so much difference in the systems followed by different canners. The acreage which can be handled easily with a given equipment by one factory might be entirely too much for another factory having, statistically at least, the same mechanical equipment. But the fact that as regards the hours of women, there are three classes of canners: (1) Those who keep within the law at all times; (2) those who exceed the limits only on rare occasions and then only because of some very unusual circumstances; (3) and those who habitually work long hours and frequently violate the law when others are obeying it—indicates very strongly that some canners are not equipped to handle the acreage they contract.

Relation of Wages to Hours

The women receive ten or twelve and a half cents per hour. There is no uniformity of rates in all canneries but probably one-half of the factories pay ten cents while the other half pay twelve and a half cents for the same kind of work. In some instances where local women are employed only ten cents is paid. As already noted, few of these women are dependent upon their wages for a living and most of them do not work for wages except during the canning season. Foreign women more often

receive twelve and a half cents because, being dependent upon their wages, their employers cannot secure their work for less. There are exceptions to this rule where even foreign women receive but ten cents per hour.

In the canning of peas, men are harder to obtain than women. Men are regularly employed as wage earners in other occupations, and, especially during the pea season, the demand for men in other kinds of work is usually considerable. Furthermore pea canning requires a larger proportion of men than other work at the canneries. Many men who are used in the pea season are not needed at other times. Hence to obtain sufficient male help the canner is dependent upon floaters and other temporary help. Even by using such help the canner can obtain a sufficient number only by paying the men fifty to one hundred per cent more per hour than the women are paid.

Because the men receive more per hour than the women and because there are so many more men employed than women in canning peas, the total wages paid to women constitute an average of approximately 10 per cent of the total manufacturing labor cost. In but very few cases does it exceed 15 per cent. The total manufacturing labor cost per case of number two cans of peas is twenty cents or less. Twenty-five cents per case is considered a high manufacturing labor cost. A conservative estimate of the total cost per case, including cost of raw materials, overhead costs, manufacturing cost, packing, selling, freight, etc., is \$1.75.

Using the figures which show labor costs above the average, in order to be as conservative as possible, this means: First, that the manufacturing labor cost does not exceed 14 per cent of the total cost per case; and second, that the part of the manufacturing labor cost due to women's work does not exceed 2 per cent. of the total cost per case. Assuming that, if permitted, the canners would require 10 per cent. of the women's work to be performed after 10 P. M. (and this is probably more than would be required), the cost of such labor would not exceed $\frac{1}{5}$ of 1 per cent of the total cost per case. Suppose the canners were permitted to work women after 10 P. M., provided double time was paid for such work. This would mean an increased cost to the canner of not to exceed \$.0035 per case. Since the figures here used have been

very conservatively selected, a more accurate estimate of the probable increase in cost would be something less than \$.0035 per case, or an increase in total cost of less than $\frac{1}{5}$ of 1 per cent.

Or, assuming that 25 per cent of the women's work is required to be performed after supper — i. e., beginning at 7 P. M. (and here again 25 per cent is more than would be so required)— the cost of such evening work would not exceed $\frac{1}{2}$ of 1 per cent of the total cost per case. Suppose the canner paid time and a half for all work performed by women after supper. This would mean an increased cost to the canner of an amount not to exceed \$.004375 per case. Again since the figures used have been very conservatively selected, a more accurate estimate of the probable increase in cost would be something less than \$.004375 per case, or an increase in total cost of less than $\frac{1}{4}$ of 1 per cent. Even double time for all work performed by women after supper would increase the cost per case only by something less than \$.00875, or less than $\frac{1}{2}$ of 1 per cent of the total cost per case.

The statements of the canners indicate that the losses which the present restrictions upon the hours of their women employees cause them at times amount to "thousands of dollars," an amount many times the added cost discussed in the preceding paragraphs, since the season's total manufacturing labor cost in but very few canneries requires a number of five digits to express it. In reply to inquiries many of the canners admitted that extra women could be secured for work after supper provided sufficient inducement was offered. Double time was generally considered "sufficient inducement" while in some cases time and a half was so considered. However, the canners objected to trying the experiment of offering higher wages for evening help because, it was claimed, in addition to the increased burden of cost, such a plan would demoralize the regular women employees unless their rates were increased proportionately. By granting the increase to all women employees who work after supper the regular force would not be demoralized and, as shown above, the increased cost would not be burdensome especially if such a plan would save for the canner the "thousands of dollars" which he states he is now losing.

Furthermore, such an increase in rates to the women for their work after supper would not result in a demoralization of the

men employees in the factories. It is not at all likely that they, too, would demand similar increases in rates and refuse to work if their demands were not granted. Considering the kind of work done there is a wide discrepancy between men's wages and women's wages, due to the relative scarcity of men rather than to their greater contribution to the productivity of the factory. There is at present no fixed ratio of men's wages and women's wages and an increase in the latter would not necessitate a proportionate increase in the former. In fact when women and men are employed at the same kind of labor, as in snipping beans, the former sometimes accomplish more than the latter.

There can be no doubt but that the relationship of rates of wages to hours of labor is so direct that a more careful adjustment of the former would remove many of the difficulties with the latter.

Recommendations

In considering recommendations of changes in the present regulations governing the hours of women in canneries, two things should be kept constantly in mind:

First, peas are very perishable.

Second, the work performed by women is monotonous, exacting, tiresome.

Some of the canners are honestly and intelligently trying to so govern their business that they may operate within the limits of the law. Some others are honestly but not very intelligently trying to do the same. Still others are waiting for the Legislature to reverse its action in restricting the hours of labor of women in canneries by exempting the canneries from the operation of at least portions of the Labor Law. In the meantime the latter are openly violating the law, apparently with a clear conscience, relying upon the continuance of the Department of Labor's inability to convict them in their local courts. Believing that any changes in the present laws and regulations governing canneries should be in accordance with demonstrable possibilities which will relieve the canners without further endangering the health of their employees, the following recommendations are made with the expectation that, if carried out, they will tend to make the canner

who is now able to live within the law the standard for the industry.

The permit should be continued, granting an extension of time, for a period not to exceed six weeks, to pea canners. While the present period — June 25th to August 5th — is generally satisfactory to canners of peas it would be better to grant the permit for a period not to exceed six weeks of the pea season, such period to be that designated by the particular canner in his request for such permit. The reason for this proposed change is the fact that differences in soil, climate, and customs cause crops in different sections to mature at different times. The delivery of the same variety of peas at two nearby canneries sometimes occurs several days apart, while in one section of the state one canner may have finished canning peas before the heaviest rush reaches his competitor in another part of the state.

The maximum limit of sixty-six hours per week should be retained. In fact only those canners who believe that the Labor Law should not apply to canneries ask that a longer week be granted them. In those few cases where the sixty-six hour limit is being exceeded at present it is safe to say that poor management or insufficient equipment, either in machinery or labor or both, is the cause.

The limit of six days per week for women should be retained. Women especially require rest periods in the work which they perform even though they are employed but a few weeks in the year. It should be noted here that this six-day limitation does not preclude Sunday work, but does require that in case of such work there must be a compensating day of rest during the week.

The twelve-hour day should be retained. Many of the canners, in fact most of them, admit that twelve hours' work in one day is enough for any woman and that no woman should be asked to work longer than that in a cannery. As previously stated, although there are occasional rest periods on some days because of delays, such periods seldom occur on days when the women work long hours because the delays are minimized at such times.

The canner is undoubtedly hampered at times by the ten o'clock closing law. It sometimes happens that, owing to a late start, the women may not have worked more than nine or ten hours by

10 P. M. If the canner expects a heavy delivery of peas the following day it would be of considerable advantage to him if he could keep his women at work for an hour or two longer. Of course, this would mean that the women would leave the factory and walk through poorly lighted or unlighted streets at an hour when there were few people about. This is a factor which should be carefully considered in any proposal to repeal or amend the ten o'clock closing law; for during the pea canning season there are always more or less floaters, hoboes, and other strangers employed at the factory, whose presence endangers the safety of the women in going to their homes late at night. The husbands or other male members of the families of some of the women work in the factories and serve as escorts to the women at night. This is not always possible, however, since in some cases the men are detained by their work a considerable time after the women's work is finished. In other cases women who live in the same neighborhood leave the factory together. It has been suggested that the canner be made responsible for the safe conduct of his women employees to their homes when they are employed later than 10 P. M. If such a suggestion is practicable, it would remove one of the objections to extending the closing hour for women.

If the women are insured a sufficient rest period between their work-days it is doubtful if occasional late hours are more harmful than earlier hours, provided the length of the working day is not increased. However, because of other considerations the canner should be encouraged to keep within the ten o'clock limit if possible; or rather discouraged from exceeding such limit. It is therefore recommended that on any day when a canner finds it necessary to operate his factory later than 10 P. M. he shall so notify the Department of Labor. Having wired such notification, the canner may proceed to exceed the ten o'clock limit on that day, subject to the following limitations: First, that every woman shall have at least nine hours rest between work-days; second, that no woman shall work more than twelve hours in any work-day; and third, either that all work performed by women after 10 P. M. shall be compensated at double time, or that no woman who works after 10 P. M. shall have a total work-day of more than eight hours.

Upon receipt of such notification from the canner an inspector from the Department of Labor shall proceed to the cannery — on the same day if possible, or on the next day at the latest — to determine whether or not the necessity for late hours for women actually existed and whether or not the sanitation and safety of the factory is up to the standard of the best canneries of that class in the state. In case the inspector finds that an emergency requiring the women to work after 10 P. M. did not exist, the canner shall be notified that it will not be lawful for him to so employ his women again unless the existence of the emergency is certified to by an inspector of the Labor Department *before* the late hours are worked. And in case the inspector finds that the sanitation and safety of the factory is *not* up to the standard of the best canneries of that class in the state, the canner shall be notified that it will not be lawful for him to so employ his women again until an inspector of the Labor Department certifies that the defects in the sanitation and safety of his factory have been corrected. On every day that the canner desires to work late hours he shall notify the Labor Department by wire and the above procedure shall be repeated.

If the canner will exercise all reasonable efforts to control the harvesting of his crops by regulating their planting in the manner previously suggested he will minimize the necessities for late hours. By granting him the relief suggested in the above recommendations he can care for his crop even during rush periods occasioned by tricks of the weather without causing undue hardship to his women employees. It may increase his manufacturing labor cost slightly; but as already shown in detail, such increase would be very slight indeed and would be returned to him many times in the losses it would prevent.

New York versus Other States

The production of peas in the United States is centered in Wisconsin and New York. The distribution of all peas packed in the United States during the seven years from 1908 to 1914 inclusive is shown in the following table:

A female eighteen years of age or upwards may * * * be employed in canning or preserving perishable products in fruit and canning establishments between the fifteenth day of June and the fifteenth day of October in each year not more than six days or sixty hours in any one week nor more than ten hours in any one day; and the industrial board shall have power to adopt rules and regulations permitting the employment of women eighteen years of age and upwards on such work in such establishments between the twenty-fifth day of June and the fifth day of August in each year not more than six days nor more than sixty-six hours in any one week nor more than twelve hours in any one day, if said board shall find that such employment is required by the needs of such industry and can be permitted without serious injury to the health of women so employed. The provisions of this subdivision shall have no application unless the daily hours of labor shall be posted for the information of employees and a time book in a form approved by the commissioner of labor, giving the names and addresses of all female employees and the hours of work by each of them in each day shall be properly and correctly kept and shall be exhibited to him or any of his subordinates promptly upon demand. No person shall knowingly make or permit or suffer to be made a false entry in any such time book.

Under authority of the above law the New York State Industrial Commission granted the following permit to canners who asked for it for the season of 1915:

This PERMIT is granted on condition that the daily hours of labor of females shall be posted in each room where such females are employed; and it will remain in force until it is extinguished by statutory limitation or until the Rules and Regulations of the Industrial Commission, subjoined hereto, are violated in the establishment to which it relates.

This PERMIT shall be surrendered to any representative of the Department of Labor upon presentation by him of an order of revocation duly signed by a Commissioner.

RULES AND REGULATIONS OF THE INDUSTRIAL COMMISSION
Permitting the Employment of Women in Canneries Not More Than
Sixty-six Hours a Week

Pursuant to subdivision 3, section 78 of the Labor Law, and upon application to be made by the employer to the Industrial Commission, women eighteen years of age and upwards may be employed or permitted to work in canning or preserving perishable products in fruit and canning establishments between the twenty-fifth day of June and the fifth day of August, nineteen hundred and fifteen, in excess of ten hours in any one day and sixty hours in any one week, but not in excess of twelve hours in any one day nor sixty-six hours in any one week nor six days in any one week, upon compliance with the following regulations:

A WOMAN MAY BE SO EMPLOYED

1. At any process or part of the work which does not require continuous standing while at work, except that she shall not be so employed in the processes of labeling or packing cans;

2. Provided that every floor on which such woman is employed be drained free of liquids; but whenever any such floor cannot be kept entirely free from liquids, slat platforms shall also be furnished upon which such woman may rest her feet while at work;

3. Permits granting exemption under these rules and regulations shall be revocable by the Industrial Commission for violation of the above regulations.

INDUSTRIAL COMMISSION.

The statutory law of Wisconsin relating to the hours of women reads as follows:

No female shall be employed or be permitted to work in any place of employment or at any employment for such period or periods of time during any day, night or week, as shall be dangerous or prejudicial to the life, health, safety or welfare of such female. It shall be the duty of the industrial commission and it shall have power, jurisdiction and authority to investigate, ascertain, determine and fix such reasonable classification, and to issue general or special orders fixing a period or periods of time, or hours of beginning and ending work during any day, night or week, which shall be necessary to protect the life, health, safety or welfare of any female.

Under authority of this act the Industrial Commission of Wisconsin passed the following regulations to govern the hours of women in pea canneries during the season of 1915:

THE FOLLOWING RULES RESTRICTING HOURS OF EMPLOYMENT OF WOMEN IN WISCONSIN PEA CANNING FACTORIES ARE APPROVED BY THE INDUSTRIAL COMMISSION OF WISCONSIN FOR THE SEASON OF 1915:

Order No. 1. In pea canning factories where the laws regarding safety and sanitation and the orders of the Industrial Commission issued thereunder are complied with and where due provision has been made for handling the crop, women employees may be employed not to exceed 10 hours each day between the beginning and ending of work, exclusive of meal times.

Order No. 2. During the rush season, WHEN ABNORMAL CONDITIONS PREVAIL BY REASON OF BREAK DOWNS, BAD WEATHER OR CLIMATIC CHANGES, women who are engaged in the process of canning only, may be employed not to exceed 12 hours each day from beginning to ending of work, exclusive of meal times, provided, that such 12 hour days shall be limited to 15 in any one year; and provided further that time and a half pay shall be given for all time worked over ten hours a day. A day shall be considered to be the period from beginning to ending of work in any 24 hours.

Order No. 3. There must be a period of rest of at least 9 consecutive hours from the ending of work on any one day to the beginning of work on the next day.

Order No. 4. Correct permanent time records shall be kept at each plant, subject to the approval of the Industrial Commission, and open to inspection at all times, and a final report containing detailed information shall be made by the employer to the commission on blanks furnished by the commission.

Order No. 5. Copies of these regulations shall be posted in at least three different places in each factory.

INDUSTRIAL COMMISSION OF WISCONSIN.

The one conspicuous advantage which the canners in Wisconsin have over their competitors in New York State is the fact that, subject to the above orders, the former need not cease working their women employees at 10:00 P. M. This disadvantage to the New York canners has been noted elsewhere in this report and recommendations have been made concerning it.

In conclusion, a brief statement of the history of legislation regulating the hours of women in the states which compete with New York in the production of peas, will throw considerable light upon the trend of legislation affecting the hours of women in canneries. Of the four states which together produce nearly as many peas as New York, one, Indiana, has never had any law regulating the hours of women in factories. Since 1888 Maryland has limited by law the hours of women in woolen and cotton mills to ten per day. In 1912 all other manufacturing industries, except canneries, were made subject to the same limitations.

Both Michigan and Ohio have recently granted to canneries exemptions from the law regulating the hours of women in factories. In 1885 Michigan passed a law limiting the hours of women in factories, canneries included, to sixty per week. In 1909 this law was amended to reduce the hours of women in factories to fifty-four per week, but it specifically exempted canneries from its provisions. From 1881 to 1913 Ohio had a ten-hour law for all women in factories. The maximum week was reduced to fifty-four hours in 1913, but canneries were specifically exempted from any limitations regulating the hours of women employees.

Wisconsin passed an eight hour law for women in factories in 1883. In 1913 the Industrial Commission was given power to regulate the hours of women, as already described.

The legislation in each of the large pea-producing states recognizes that during the pea canning season the women in canneries

should not be restricted to the same hours worked by women in other factories. The laws of Wisconsin and New York, which states together produce five-eighths of all peas packed in the United States, recognize also that the women employees in canneries need protection from unlimited hours and that the necessary variations from the hours worked by women in other factories can be determined best by the state industrial commissions. Wisconsin's commission has practically unlimited power in this respect, while New York's Commission can grant only the specific exemptions permitted by law.

FRUIT CANNERIES

The fruit canners (meaning by fruit here berries and cherries) have little in common with the pea canners. Strawberries are a relatively small crop in this state and present few difficulties. Raspberries and cherries cause most trouble. The former are grown three years or more from the same bushes. Occasionally a well-cared-for raspberry patch is productive for fifteen years, or even longer. Probably five years is a fair average. Cherry trees ordinarily bear for twenty years or more. Hence the problem of obtaining yearly acreage is not so great with the fruit canners as with the pea canners. Some fruit canners contract for crops for a term of years; some for one year; and some buy all or a part of their fruits from commission merchants. The latter operate in all sections of the fruit belt and compete with the canners for the products of the farmer.

Where canners depend upon commission merchants to furnish their berries the periods of congestion in packing can be removed almost entirely by regulating the purchasing to suit the capacity of the factory. Where the canners contract acreage from the farmer congestions are less easily avoided. The acreage contracted by any particular canner varies but little from year to year. The berries do not ripen all at once, so that congestion from that cause is absent. Instead, each farmer obtains several pickings from his bushes, so that ordinarily a normal delivery is made each day at the cannery. Periods of congestion are due rather to local tricks of the weather, such as a heavy rain, because of which the farmer is prevented from making his usual picking

on a particular day. This causes an unusually large picking on the day after the rain, and may result in congestion at the cannery. Cherries ripen more irregularly than berries, and, although they are not more perishable, they may cause more congestion at times.

The pea canner tries to pack on a given day the peas which are delivered on that day. He tries to carry over night only enough to start with the next day. Whenever possible to avoid it he does not carry any peas over night. If he can catch up on a given day it may be late the following morning or even afternoon before the farmers deliver enough peas to start the factory. The fruit canner, on the other hand, cans on a given day the fruit that was delivered the previous day. The berries and cherries are delivered at the cannery in the evening. Hence, barring accidents or break-downs, the fruit canner may always start his factory at 7:00 A. M. He then runs until the previous day's delivery is packed. Occasionally he includes some of the same day's delivery, especially if he expects a heavy delivery for the following day's pack.

In some cases the surplus delivery for a given day is placed in storage. In such cases these must remain in storage until a slack day occurs. Some of the factories have their own storage plants, while others pay rent at commercial plants. Storage berries keep better than others under certain conditions. For example, one canner put in storage on Saturday night berries in good condition. On Monday he received a delivery of berries which had become very ripe over Sunday. On Tuesday he received a delivery of wet berries, picked after a rain that day. Random samples were taken from each of these three lots and kept out for examination. The wet berries picked on Tuesday spoiled first; the very ripe berries picked on Monday spoiled next; and the berries which were picked in good condition on Saturday and kept in storage until Tuesday night spoiled last. The first spoiled very quickly. By Thursday morning they were unfit for use. The other two had lost quality, but were useable as pie berries until Thursday night. By Friday morning they were hardly fit for use for that purpose, though the storage berries might have

been so used. The experiment confirmed the testimony of the canners that berries can be kept in storage satisfactorily and that both over-ripe berries and those picked after a rain must be used up as quickly as possible. The same is true of cherries.

Unlike the pea canners, the fruit canners employ a very large proportion of women. Relatively few men are employed in fruit canneries. The women sort the berries, picking out the refuse, stems, "whiskered" berries, etc., and fill them from quart boxes into cans. In some factories the berries and empty cans are carried to them by hand and the empty boxes and the filled cans are taken away in the same manner. In others the empty cans and berries are brought and the empty boxes and filled cans are taken away on moving tables or belts, which are filled and emptied, as the case may be at either end of the line. Refuse is even carried away by a moving belt in some factories. The sorting of the berries is a rather slow process and requires the work of many women. In one plant visited, the continuous belt table was tried on berries this year and was pronounced a success. This reduces greatly the number of women required for sorting the berries.

There seems to be no practicable method of regulating the harvesting of the berries or cherries. However, there is not ordinarily the wide fluctuation in hours that occurs in pea canning. If a fruit canner has regularly recurring periods of congestion, it is a safe assertion that his factory is being poorly managed or that the canner has contracted for more acreage of berries or a greater amount of cherries than he is equipped to take care of. On the other hand, any fruit canner may have more than the normal delivery of fruit on a given day if local tricks of the weather, such as a heavy rain, prevents the farmers from picking his fruit on a given day and thereby causes a surplus on the following day.

Relatively few fruit canners are forced to exceed the ten o'clock limit. Because they are always able to start their factories at 7:00 A. M., the fruit canners can usually put in longer days up to 10 P. M. than can the pea canners. Nevertheless there are occasions when the fruit canners would like to exceed the ten o'clock limit. For the same reasons given in the report on the pea canneries it is not believed wise to extend this limit except on the

conditions recommended in that report. Likewise the other recommendations in that report apply equally to the fruit canners.

The change which perhaps deserves most consideration in the fruit canneries is the grant of the permit for the particular period of six weeks which the canner needs rather than the arbitrary blanket grant of the permit for the period June 25th to August 5th. About June 15th the strawberry season begins. This causes little demand for long hours. Raspberries and cherries begin in July. In some sections of the state the rush period on these occurs during the last half of July while in others it is the first half of August instead. Because there is this difference in the time of maturity of fruits — a greater difference perhaps than in the time of maturity of peas — the permit should be granted for a period of six weeks to be designated by the canner in his application for the permit.

WOMEN AND CHILDREN IN BEAN CANNERIES

Women in Factories

In the packing of beans, women's work in the factories is confined to three operations — snipping, sorting and filling. The snipping consists of cutting or breaking off the ends of the beans. This work is seldom done in the factory building, but is done in a shed adjacent to the factory building. Payment is made on the piece-work basis, varying from three-quarters of a cent to a cent and a half a pound according to the size of the beans. One cent a pound is the rate most often paid. Some factories have a flat rate of one cent for all grades of beans. It was not possible to obtain an accurate statement of the wages per hour earned by the bean snippers without a detailed study of the time books. The statements of the canners varied so much as to be of little use.

Although some men and children work at bean snipping in the factory sheds the women predominate in numbers. Some sort of seats is provided for the workers and the systems of ventilation in most factory sheds visited are fairly satisfactory. This work is removed from the noise and heat of the factory proper. The snipping itself is not heavy work although the rates paid per pound necessitate constant application in order to obtain a fair day's wage. In most factories the snippers carry their snip-

ped beans to the scale. This takes the time of the workers and saves a small expense to the canners; but it also makes the workers better satisfied if they can see their beans weighed. This seems to be true also of those who cannot read the scale and hence do not know any more about the accuracy of the weight credited them than if they had not seen the beans weighed. In some cases the snippers must also go after their unsnipped beans and carry them back to their seats. This is a practice which takes time, especially if the snippers are forced to wait in line to have their boxes filled. It can be eliminated easily with but little added expense to the canners.

The hours of snippers in the factory sheds are not long ordinarily. Unsnipped beans can be carried over night without noticeable depreciation in quality, so that late hours at night are not required in this work. A rush of beans may be caused by successive days of wet weather which prevents the pickers from entering the field. In such case longer hours than usual may be required of the snippers; but even then excessive hours are not necessary, because the beans may be held over. In cases where the bean blight or anthracnose attack the beans the snipping and packing must be done at once in order to prevent the loss of the beans. Otherwise the discolored spots spread very rapidly and soon make the bean entirely unfit for use.

A comparatively small number of women work at the sorting tables where refuse is picked out of the moving stream of cut beans in the same manner that peas are cleaned of refuse. However, the sorting of beans is hardly as exacting as the sorting of peas. This is time work, paid for usually at ten cents per hour. A small number of women fill cans with the cut beans. Payment for this work is either piece rate or time rate, according to the custom in the factory in question.

There is very little demand for an extension of the hours of women during the bean season. Although a few canners have asked for the extension of the permit period to cover the bean season as well as the pea season, there was not sufficient evidence found to warrant such a recommendation.

Children in Factories

But few children under age were found working in the factories or in the factory sheds. In one factory the regular inspector had ordered fourteen children under age to quit working in the shed and in the afternoon of the same day two children under age were found working in the same shed. At other places children were found in and around the factory building and shed, but none were found at work. In some places playground facilities with attendants were provided for the children, while in others the children were left to their own resources. It is comparatively easy to keep the children out of the factories and the factory sheds and there seems to be no reason why the law should be violated in this respect.

Picking the Beans

In the planting and harvesting of the beans three systems are in use: (1.) The canner contracts with the farmer to grow whatever beans he and his family or hired help can tend and pick. (2.) The farmer grows the beans and the canner picks them. (3.) The canner himself grows and picks his own beans. In the first case the canner takes no responsibility for supplying help and the farmer grows only a small acreage, one to two acres or less. In the other two cases the canner establishes a farm colony of families, usually Italians, to pick the beans. The picking season lasts for six weeks or two months, so that the entire family moves out to the barracks or sheds provided for that purpose.

Since the beans are picked over four, five or more times in a season the vines must be carefully handled during the first pickings to prevent the loss of the beans which should mature later. For this reason the pickers do not enter the field in the morning until after dew is off the vines. This is usually about 7 to 8 o'clock, according to the statements of the canners and their field superintendents. The pickers leave the field by 5 o'clock in the afternoon, according to the same source of information.

Picking is done on a piece-work basis, one cent a pound being the most common rate. Each adult or recognized picker carries a sack, which forms a convenient receptacle both for carrying the beans and for weighing them. Like the snipping, no dependable figures showing hourly earnings of pickers were obtained.

Children as Pickers

When the picking begins the entire family goes to the field. The babes in arms are left in bundles at the end of the row or are left as charges of older children. Those three or four years old sometimes follow their mothers down the rows, clinging to their skirts or playing nearby. Such children may occasionally pick a bean or two, but they cannot be said to be working. More often children of such ages do not enter the field. The next group, ranging in age from five to eight, are old enough to make it impossible for their mothers to keep them within reach, but not old enough to make dependable workers by themselves. They are apt to destroy more vines than the beans they pick are worth. Such children usually stay at the end of the row or play in the road or in an adjoining field. Children over eight are sometimes used as pickers and if they are or appear to be eleven or twelve years of age, they are given rows of their own. Otherwise they pick into small buckets or baskets and empty their beans into the sack carried by some older picker. Small children are not given rows of their own but pick along with their mothers or older children.

Children as Snippers

Although the children do not ordinarily snip beans at the factory, three systems are in use which make snipping beans by children possible: (1.) A system is being introduced by which the canner buys his beans already snipped from Italian farmers with families large enough to enable them to grow, harvest and snip a small acreage of beans. (2.) In some factories it is the custom to send beans into the homes to be snipped. It is said that the women refuse to work in the factories because their small children cannot work too; whereas in the home the children work unmolested. (3.) Some canners who grow their own beans have their snipping sheds at their farms. Their colony of Italian families pick the beans in the forenoon and snip them in the afternoon. In such cases children of all ages help to snip.

The Attitude of the Canners

Most of the cannerymen visited are undoubtedly trying to live within the law in so far as it prohibits the work of children in the factories. Several cannerymen volunteered the suggestion that if their crop of beans was not unusually light and if they were unable to obtain a sufficient supply of women snippers at the prevailing rates of pay they would be less scrupulous about obeying the law which prohibits the employment of children.

In regard to the employment of children away from the factory there is little evidence to show that the cannerymen are trying to obey the law. Where snipping is done at home the cannerymen feel that they are relieved of all responsibility for the illegal employment of children, if such exists. Where children pick or snip beans on the farm, the cannerymen assume that the law will not and cannot be enforced. The reply of one canneryman to a request for an explanation for the presence of seventy-five or more children illegally employed on his farm is typical of the attitude of the cannerymen on this subject. He said in part — "In the first place we didn't know that the Department of Labor was going to give any attention to the question of the employment of children on farms this season; and in the second place we don't admit the constitutionality of that section of the Labor Law."

The Problem of Law Enforcement

If the cannerymen could obtain sufficient adult help at the prevailing rates it is quite evident that they would prefer to employ no children at all. The children, as a rule, destroy more vines than the adults and are not as careful to pick all the beans that are ready. But the rates paid are such that a family income rather than an individual income is used as the basis of calculation. The farm colonies contain but few unmarried adults. Both the cannerymen and the adult workers expect the children to work.

However, low wages are not the only cause of child labor in the bean fields. Regardless of the wages paid the Italian parents think their children should contribute to the family income. This may be traceable in part to the fear of absolute need of such contribution later, but it is undoubtedly due in part to the lack of

appreciation of any harm that may come to the children because of the labor which they perform. The parents have been accustomed to work from childhood for their parents and they therefore expect similar treatment from their children.

Hence, even if the canners attempted to live within the law prohibiting child labor they would have considerable difficulty in enforcing the necessary rules to effect this end. In the first place it would be more difficult to keep the parents in the camps. And of those who stayed it would require constant policing of every part of the field to keep out the children. In violation of the orders of the superintendent the parents encourage and even force the children to return to work.

Conclusion

Some of the canners visited claim that they are living within the child labor law. Since no one was working at the time their farms were visited there is no evidence to disprove their claims. But at the farms visited at the time the beans were being picked or snipped, children were being employed with apparently no attempt to keep within the law. Enough of such visits were made to warrant the belief that the illegal employment of children on the farms during the bean season is quite general.

If the employment of children in picking or snipping beans for a few hours a day is detrimental to the health of such children, some means of enforcing the law should be found. If the health of the children is not impaired by such work the law should be repealed, since its existence and non-enforcement weakens, in the minds of the canners, the determination to try to live up to the other laws which affect their business.

(3) REPORTED INDUSTRIAL DISEASES

By a law passed in 1911, attending medical practitioners are required to report to the Department of Labor all cases of poisoning from lead, phosphorus, arsenic or mercury or their compounds, or from anthrax, or compressed air illness, contracted as the result of the nature of the patient's employment. In 1913 poisoning from brass or wood alcohol was added to the above list. The total number of cases reported to the Department of Labor during the three years from September 1, 1911, to August 31, 1915, inclusive is recorded in the following table (see detailed figures in table appended).

SUMMARY OF INDUSTRIAL DISEASES REPORTED 1912-1915

DISEASE	Total cases	Thereof known fatal
Lead poisoning:		
Manufacture of white lead.....	19	....
Manufacture of electric batteries.....	70	4
Smelting.....	9	1
Manufacture of paints, inks and colors.....	16	2
Printing.....	8	3
Painting in shops.....	67	10
All other manufacturing.....	48	6
House painting.....	159	33
Other or indefinite.....	15	5
Total.....	411	64
Other poisonings.....	26	3
Anthrax.....	10	5
Caisson disease.....	61	1
Grand Total.....	508	73

Any attempt to draw general conclusions from the statistics presented in the above table must recognize that these statistics are very incomplete. In spite of the fact that the law requires attending physicians to report all cases of the industrial diseases listed above, the reports which reach the Department of Labor aggregate but a small part of the number of cases which occur each year.

No complete statistics of industrial diseases in the state as a whole are available. During 1915, however, an investigation of the records of the hospitals of New York City was made which affords some comparison for that portion of the state. For the

three years from September 1, 1911, to August 31, 1914, the cases of reportable industrial diseases treated in these hospitals and the number of such cases reported to the Department of Labor are shown in the following table:

NEW YORK CITY HOSPITAL CASES OF REPORTABLE INDUSTRIAL DISEASES
1912-1914

DISEASE	Total cases treated	Thereof reported to Depart- ment of Labor
Lead poisoning.....	378	101
Arsenic poisoning.....	5	2
Mercury poisoning.....	2	1
Brass poisoning.....	2	.....
Caisson disease.....	7	1
Total.....	394	105

In other words, only about one-fourth of the cases of reportable industrial diseases which were treated in the hospitals of New York City were reported to the Department of Labor. Furthermore, there is reason to believe that the reports from these New York City hospitals are relatively more complete than those from other reporting hospitals and physicians in the remainder of the state.

Comparing the two tables above it is fair to estimate that during the three years from September 1, 1911, to August 31, 1914, there were probably not less than 1,500 cases of reportable industrial diseases in New York State. Since only 388 of these were reported (see appended table) the futility of attempting to draw general conclusions from reported cases is at once apparent. The best that can be said is to point out the significant facts presented by the cases reported, since it is not known that these are representative of all cases occurring in the state. In fact, the cases reported are probably not representative of all cases treated.

Of the total number of cases reported, 15 per cent are known to have resulted fatally and 85 per cent were non-fatal cases. In lead poisoning alone these proportions were 17 per cent and 83 per cent respectively. Lead poisoning furnished 81 per cent of all cases reported; 78 per cent of all non-fatal cases; and 90 per cent of all fatal cases. Of the total number of lead poisoning

cases, house painting furnished 41 per cent of all cases reported; 40 per cent of all non-fatal cases; and 47 per cent of all fatal cases.

INDUSTRIAL DISEASES REPORTED UNDER § 65 OF THE LABOR LAW*

(Figures in parentheses denote fatal cases)†

DISEASE AND INDUSTRY	Sept., 1914- Aug., 1915	Sept., 1913- Aug., 1914	Sept., 1912- Aug., 1913	Sept., 1911- Aug., 1912	Total (4 years)
LEAD POISONING					
Manufacturing:					
White lead.....	11	.....	1	7	19
Electric batteries.....	22	(3) 13	(1) 14	21	(4) 70
Smelting.....	4	1	2	(1) 2	(1) 9
Paints, inks and colors.....	3	(1) 4	(1) 7	2	(2) 16
Printing.....	.....	(2) 4	(1) 3	1	(3) 8
Painting (in shops, etc.).....	(1) 11	(4) 13	(4) 21	(1) 22	(10) 67
Miscellaneous.....	(1) 15	(3) 9	(2) 14	10	(6) 48
Total.....	(2) 66	(13) 44	(9) 62	(2) 65	(26) 237
Building:					
Painting.....	(8) 30	(11) 30	(10) 48	(4) 51	(33) 159
Plumbing, etc.....	.....	.....	1	(2) 3	(2) 4
Total.....	(8) 30	(11) 30	(10) 49	(6) 54	(35) 163
Other or indefinite.....	(1) 2	.....	(2) 3	6	(3) 11
Total—lead poisoning.....	(11) 98	(24) 74	(21) 114	(8) 125	(64) 411
OTHER POISONINGS					
Arsenic.....	.....	1	.....	4	5
Brass.....	10	2	1	1	14
Mercury.....	1	(1) 1	2	(1) 1	(2) 5
Phosphorus.....	.....	.....	.....	(1) 1	(1) 1
Wood alcohol.....	.....	.....	1	.....	1
Total.....	11	(1) 4	4	(2) 7	(3) 26
ANTHRAX					
Tanning, leather dressing, etc....	(3) 4	(1) 1	(1) 3	2	(5) 10
CAISSON DISEASE					
Shafts, tunnels, etc.....	7	24	1	(1) 29	(1) 61
Grand Total.....	(14) 120	(26) 103	(22) 122	(11) 163	(73) 508

* Includes cases reported by employers as accidents.

† Record of fatal cases obtained only from certificates filed with boards of health.

(4) CHILDREN'S EMPLOYMENT CERTIFICATES ISSUED IN 1914 AND 1915

INTRODUCTORY

The number of employment certificates issued to children in this state since 1896, as they have been reported to the Department of Labor, is as follows:

YEAR	Number	YEAR	Number	YEAR	Number
1897.....	11,011	1903.....	24,005	1910.....	45,272
1898.....	13,359	1904.....	12,401	1911.....	50,655
1899.....	16,240	1905.....	12,124	1912.....	53,047
1900.....	20,383	1906.....	23,299	1913.....	†59,000
1901.....	*18,708	1907.....	25,629	1914.....	42,468
1902.....	22,539	1908.....	26,929	1915.....	46,313
		1909.....	37,402		

In large degree, fluctuations from year to year reflect important changes made in the law regulating the certificate requirements. In 1903 the law was amended to make proof of age more exact. This undoubtedly accounted for a large share of the decrease in the number of certificates for the following year, although a part of the decrease (probably less than 25 per cent) was due to the abolition of vacation certificates in the same year. In 1905 the proof of age requirements were relaxed somewhat and resulted in an increase in the number of certificates reported for the following year. In this case a part of the increase (probably not to exceed 15 per cent) was due to the reporting of mercantile certificates in 1906, for which there were no corresponding reports in 1905. The increase in the educational requirements by the law passed in 1913 resulted in a marked decrease in the number of certificates reported for 1914. In this last case the decrease from this cause was probably somewhat greater than the table indicates, for at the same time the law was amended to require duplicates of the records of examination for mercantile certificates, as well as for factory certificates, to be forwarded to the Commissioner of Labor. However, the increase in the number reported due to this cause was probably very slight, since the reporting health authorities from the beginning did not always distinguish between factory certificates and mercantile certificates

* Ten months.

† Estimated on the basis of figures for first and second class cities.

and frequently reported both, though not required to report the latter previous to 1913.

CERTIFICATES ISSUED IN 1915

Table A appended shows the geographical distribution in the state of the certificates issued in the year ended September 30, 1915, first, by counties, cities and villages, supplemented by a table recapitulating the figures for cities in alphabetical order.

CERTIFICATES ISSUED IN 1914

In the reports of physical examinations of children seeking employment certificates, first required by law in 1912, is given the country of birth of the child's father in each case. Some special tabulations of this information in connection with sex and age data were made for the year ended September 30, 1914, the results of which are here presented.

Table 1 shows the distribution of children to whom certificates were granted in 1914, by sex and locality. (For more detailed figures see Table B appended.

TABLE 1. DISTRIBUTION OF CHILDREN TO WHOM CERTIFICATES WERE ISSUED IN 1914 BY SEX AND LOCALITY

LOCALITY	MALES		FEMALES		TOTAL	
	Number	Per cent	Number	Per cent	Number	Per cent
Albany.....	201	63.0	118	37.0	319	100.0
Buffalo.....	1,908	63.9	1,076	36.1	2,984	100.0
New York.....	18,683	58.1	13,454	41.9	32,137	100.0
Manhattan Borough.....	8,537	56.6	6,557	43.4	15,094	100.0
Brooklyn Borough.....	6,515	59.6	4,420	40.4	10,935	100.0
Bronx Borough.....	1,975	60.9	1,269	39.1	3,244	100.0
Queens Borough.....	1,418	58.1	1,024	41.9	2,442	100.0
Richmond Borough.....	238	56.4	184	43.6	422	100.0
Rochester.....	809	58.7	569	41.3	1,378	100.0
Schenectady.....	153	76.5	47	23.5	200	100.0
Syracuse.....	448	66.7	224	33.3	672	100.0
Troy.....	98	56.6	75	43.4	173	100.0
Utica.....	264	60.0	176	40.0	440	100.0
Yonkers.....	143	75.3	47	24.7	190	100.0
Remainder of State.....	2,329	57.4	1,725	42.6	4,054	100.0
Total.....	25,036	58.8	17,511	41.2	42,547	100.0

In the state as a whole 58.8 per cent of all certificates were granted to boys and 41.2 per cent were granted to girls. The sex distribution for the state as a whole is governed by the sex distribution in New York City, since over three-fourths of all certificates issued in the state were granted to children in New York City. Six of the other cities listed in the above table, or all but Rochester and Troy, show a greater proportion of boys than does the entire state. The explanation of this difference is to be sought in the kinds of industrial opportunities offered in such cities. For the most part their industries employ a larger proportion of boys than do the industries of New York City. The ratio of boys to girls in the small cities and in all villages in the state (designated collectively in Table 1 as "Remainder of State") is approximately the same as in New York City.

Child labor, like the industries which employ it, is concentrated in the urban centers. Table 2 shows the relation of population distribution to the distribution of child labor certificates issued in 1914:

TABLE 2. RELATION OF CONCENTRATION OF POPULATION TO THE DISTRIBUTION OF CHILD LABOR CERTIFICATES

	Distribution of population (Census 1910) (Per cent)	Distribution of child labor certificates issued in 1914 (Per cent)
New York City.....	52.3	75.5
Buffalo } Rochester }	9.6	12.6
Albany } Schenectady } Syracuse } Troy } Utica } Yonkers }	3.3	2.4
Third class cities.....	9.0	5.5
Remainder of State.....	25.8	4.0
Total for State.....	100.0	100.0

The most important relations in the above table are: (1.) New York City, having but little over one-half of the population of the state, issued over three-fourths of all child labor certificates granted in 1914, and (2.) that part of the state outside of the cities, having over one-fourth of the population of the state,

issued only one-twenty-fifth of the child labor certificates granted in 1914.

Table 3 shows the percentage distribution of child labor certificates issued in 1914 by nativity of father and locality. (For more detailed figures see Table C appended.)

TABLE 3. PERCENTAGE DISTRIBUTION OF CHILDREN TO WHOM CERTIFICATES WERE ISSUED IN 1914 BY NATIVITY OF FATHER AND LOCALITY

LOCALITY	COUNTRY OF BIRTH OF FATHER								
	United States	Rus- sia	Ger- many	Italy	Aus- tria	Ire- land	Eng- land	All others	Total*
Number									
Albany.....	180	38	44	12	3	13	7	16	313
Buffalo.....	1,191	81	885	157	40	84	69	470	2,977
New York.....	8,144	5,945	4,164	4,483	3,242	2,748	710	2,615	32,051
Manhattan Borough...	2,613	3,490	1,866	2,415	2,316	1,515	257	1,091	15,063
Brooklyn Borough.....	3,434	1,904	1,382	1,468	526	852	292	1,036	10,894
Bronx Borough.....	956	482	553	350	286	251	80	285	3,243
Queens Borough.....	955	61	777	198	104	108	63	163	2,429
Richmond Borough....	186	8	86	52	10	22	18	40	422
Rochester.....	573	36	329	106	7	37	61	226	1,375
Schenectady.....	80	11	29	21	14	9	8	28	200
Syracuse.....	289	31	171	40	7	59	18	50	665
Troy.....	90	8	25	6	1	24	4	14	172
Utica.....	161	28	67	100	6	12	14	48	436
Yonkers.....	72	16	8	9	28	25	3	33	180
Remainder of State.....	2,147	85	401	341	121	158	141	492	3,886
Total.....	12,927	6,279	6,123	5,275	3,464	3,169	1,035	3,992	42,264
Percentages									
Albany.....	57.5	12.1	14.1	3.8	1.0	4.2	2.2	5.1	100.0
Buffalo.....	40.0	2.7	29.7	5.3	1.4	2.8	2.3	15.8	100.0
New York.....	25.4	18.5	13.0	14.0	10.1	8.6	2.2	8.2	100.0
Manhattan Borough...	17.3	23.2	9.1	16.0	15.4	10.1	1.7	7.2	100.0
Brooklyn Borough.....	31.5	17.5	12.7	13.5	4.8	7.8	2.7	9.5	100.0
Bronx Borough.....	29.5	14.9	17.0	10.8	8.8	7.7	2.5	8.8	100.0
Queens Borough.....	39.3	2.5	32.0	8.2	4.3	4.4	2.6	6.7	100.0
Richmond Borough....	44.1	1.9	20.4	12.3	2.4	5.2	4.2	9.5	100.0
Rochester.....	41.7	2.6	23.9	7.7	0.5	2.7	4.4	16.5	100.0
Schenectady.....	40.0	5.5	14.5	10.5	7.0	4.5	4.0	14.0	100.0
Syracuse.....	43.5	4.7	25.7	6.0	1.0	8.9	2.7	7.5	100.0
Troy.....	52.3	4.7	14.5	3.5	0.6	14.0	2.3	8.1	100.0
Utica.....	36.9	6.4	15.4	22.9	1.4	2.8	3.2	11.0	100.0
Yonkers.....	38.1	8.5	4.2	4.8	12.2	13.2	1.6	17.4	100.0
Remainder of State.....	55.2	2.2	10.3	8.8	3.1	4.1	3.6	12.7	100.0
Total.....	30.6	14.9	14.5	12.5	8.2	7.5	2.4	9.4	100.0

In the state as a whole the fathers of 30.6 per cent of all children to whom certificates were granted were born in the United States; 14.9 per cent in Russia; 14.5 per cent in Germany; 12.5 per cent in Italy; 8.2 per cent in Austria; 7.5 per cent in

* These totals do not agree with the totals in Table 1, since the children whose applications for certificates did not state the nativity of the father are included in Table 1, but are omitted here.

Ireland; 2.4 per cent in England, and 9.4 per cent in all other countries.

Of the children whose fathers were born in the United States, Albany had the largest proportion with 57.5 per cent; followed by small cities and villages (Remainder of State*), with 55.2 per cent; Troy, with 52.3 per cent; Syracuse, with 43.5 per cent; Rochester, with 41.7 per cent, and Buffalo and Schenectady with 40.0 per cent each. New York City had the smallest proportion, with only 25.4 per cent; within New York City, Manhattan Borough had the lowest proportion with 17.3 per cent.

The largest proportion of children with fathers born in Russia is recorded for New York City with 18.5 per cent; Manhattan Borough having 23.2 per cent. Albany is second with 12.1 per cent and Yonkers third with 8.5 per cent. The remainder of the State is lowest with 2.2 per cent, followed by Buffalo with 2.7 per cent. The low figure of 2.6 per cent for Rochester is misleading since it does not include Russian Jews.

Buffalo had the largest proportion of children with fathers born in Germany, with 29.7 per cent, followed by Syracuse with 25.7 per cent, and Rochester with 23.9 per cent. The lowest proportion was recorded for Yonkers with 4.2 per cent, followed by Remainder of State with 10.3 per cent, and New York City with 13.0 per cent — Manhattan Borough having only 9.1 per cent, while Queens had 32.0 per cent.

Utica leads in the proportion of children whose fathers were born in Italy with 22.9 per cent, followed by New York City with 14.0 per cent — Manhattan Borough having 16.0 per cent — and Schenectady with 10.5 per cent. Troy has the lowest proportion with 3.5 per cent, followed by Albany with 3.8 per cent.

Yonkers had the highest proportion of children whose fathers were born in Austria with 12.2 per cent, followed by New York with 10.1 per cent — Manhattan Borough having 15.4 per cent — and Schenectady with 7.0 per cent. Rochester had the lowest proportion with 0.5 per cent, followed by Troy with 0.6 per cent, and Syracuse with 1.0 per cent.

* Wherever this term is used in this text it means that part of the state outside of the first and second class cities. For distribution of certificates issued in third class cities, see Table C of the Appendix.

Ireland recorded the highest proportion in Troy with 14.0 per cent, followed by Yonkers with 13.2 per cent; Syracuse with 8.9 per cent, and New York with 8.6 per cent. The lowest proportion was in Rochester with 2.7 per cent, and Buffalo and Utica had 2.8 per cent each.

The proportions of children whose fathers were born in England were most evenly distributed, no city showing either high or low percentages.

The high percentages recorded under "All others" require explanation. In most cases one or more countries, not listed separately in the table, are high in one city but not high in other cities. For example, of the 15.8 per cent recorded under "All others" for Buffalo, 9.2 per cent were children whose fathers were born in Poland and 4.0 per cent in Canada. Of the 16.5 per cent recorded for Rochester, 4.3 per cent were children whose fathers were born in Canada, 4.2 per cent were recorded as Jews, and 2.3 per cent were children whose fathers were born in Holland. The 14.0 per cent recorded under "All others" for Schenectady were distributed among a dozen or more countries. Of the 17.4 per cent recorded for Yonkers 8.5 per cent were children whose fathers were born in Hungary and 4.2 per cent in Scotland.

Although 75.8 per cent of all certificates recorded in the above table were issued in New York City the percentages for each country vary considerably from the total and from each other. They are as follows: United States, 63.0 per cent; "All others," 65.5 per cent; Germany, 68.0 per cent; England, 68.6 per cent; Italy, 85.0 per cent; Ireland, 86.7 per cent; Austria, 93.6 per cent, and Russia, 94.7 per cent.

Table 4 shows the percentage distribution of children in New York City to whom certificates were issued in 1914, by nativity of father, age and sex.

TABLE 4. PERCENTAGE DISTRIBUTION OF CHILDREN IN NEW YORK CITY TO AND

NATIVITY OF FATHER	14 to 14½ years		
	Male	Female	Total
			<i>Num</i>
United States.....	1,948	1,022	2,970
Russia.....	1,221	770	1,991
Italy.....	971	1,103	2,074
Germany.....	1,032	824	1,856
Austria.....	750	579	1,329
Ireland.....	659	287	946
England.....	148	79	227
Norway-Sweden.....	147	97	244
Roumania.....	99	50	149
Hungary.....	92	62	154
All other*.....	298	171	469
Total.....	7,365	5,044	12,409
			<i>Percent</i>
United States.....	24.0	12.5	36.5
Russia.....	20.5	13.0	33.5
Italy.....	21.6	24.6	46.2
Germany.....	24.8	19.8	44.6
Austria.....	23.1	17.9	41.0
Ireland.....	24.0	10.4	34.4
England.....	20.8	11.1	31.9
Norway-Sweden.....	20.8	13.8	34.6
Roumania.....	24.4	12.4	36.8
Hungary.....	24.3	16.4	40.7
All other.....	24.6	14.1	38.7
Total.....	22.9	15.7	38.6

* This includes: Scotland 260, Canada 136, France 134, Switzerland 118, Denmark 100, Poland 54, Holland 48, Finland 48, West Indies 48, Turkey 32, Spain 30, Belgium 19, Wales 15, Cuba 14, Greece 11, Australia 11, South America 9, Syria 8, Mexico 3, Portugal 3, Egypt 3, Japan 2, China 2, indefinite 17, nativity of father not stated 86.

WHOM CERTIFICATES WERE ISSUED IN 1914: BY NATIVITY OF FATHER, AGE
SEX

AGES						Total		
14½ to 15 years			15 to 16 years					
Male	Female	Total	Male	Female	Total	Male	Female	Total
bers								
1,313	788	2,101	1,755	1,318	3,073	5,016	3,128	8,144
987	687	1,674	1,227	1,053	2,280	3,435	2,510	5,945
595	547	1,142	748	519	1,267	2,314	2,169	4,483
614	439	1,053	691	584	1,255	2,337	1,827	4,164
485	361	846	577	490	1,067	1,812	1,430	3,242
473	253	726	571	505	1,076	1,703	1,045	2,748
117	88	205	158	120	278	423	287	710
109	78	187	146	128	274	402	303	705
74	48	122	80	54	134	253	152	405
62	46	108	64	52	116	218	160	378
194	109	303	278	163	441	770	443	1,213
5,023	3,444	8,467	6,295	4,966	11,261	18,683	13,454	32,137
ages								
16.1	9.7	25.8	21.5	16.2	37.7	61.6	38.4	100.0
16.6	11.6	28.2	20.6	17.7	38.3	57.7	42.3	100.0
13.3	12.2	25.5	16.7	11.6	28.3	51.6	48.4	100.0
14.7	10.6	25.3	16.6	13.5	30.1	56.1	43.9	100.0
15.0	11.1	26.1	17.8	15.1	32.9	55.9	44.1	100.0
17.2	9.2	26.4	20.8	18.4	39.2	62.0	38.0	100.0
16.5	12.4	28.9	22.3	16.9	39.2	59.6	40.4	100.0
15.5	11.0	26.5	20.7	18.2	38.9	57.0	43.0	100.0
18.3	11.8	30.1	19.8	13.3	33.1	62.5	37.5	100.0
16.4	12.2	28.6	16.9	13.8	30.7	57.6	42.4	100.0
16.0	9.0	25.0	22.9	13.4	36.3	63.5	36.5	100.0
15.6	10.7	26.3	19.6	15.5	35.1	58.1	41.9	100.0

As shown in the table, 38.6 per cent of the children in New York City to whom certificates were granted in 1914 were between 14 and 14½ years of age; 26.3 per cent were between 14½ and 15 years of age, and 35.1 per cent were between 15 and 16 years of age. It should be noted, however, that the issuing of 65 per cent of all certificates to children from 14 to 15 years of age as contrasted with only 35 per cent issued to children from 15 to 16 years of age does not mean that more children at work in 1914 belonged to the younger age group. Since all certificates issued are good until the children reach the age of 16 years, probably the majority of those at work in 1914 and falling within the age group of 15 to 16 years received their certificates during the preceding year.

Considering the distribution of children within the age groups by nativity of father, it will be seen that those whose fathers were born in Italy go to work earliest, followed by Germany, Austria and Hungary, in the order named. Those whose fathers were born in England and Ireland go to work latest, followed by Norway-Sweden, Russia and the United States in the order named.

The sex distribution by nativity of father shows that girls whose fathers were born in Italy go to work earlier than boys whose fathers were born in Italy and that in the total of all age groups the girls number nearly as many as the boys. Ireland presents the sharpest contrast to Italy in this respect, sending its girls to work later than its boys and in the total numbering 63 per cent more boys than girls. Austria, Germany and Norway-Sweden are nearest to Italy in this respect in the order named; while the United States, England and Roumania are nearest to Ireland.

Table 5 presents for the total of first and second class cities, outside of New York City, the same information that Table 4 presents for New York City.

TABLE 5. PERCENTAGE DISTRIBUTION OF CHILDREN IN UP-STATE CITIES TO
AND

NATIVITY OF FATHER	14 to 14½ years		
	Male	Female	Total
			<i>Num</i>
United States.....	827	345	1,172
Germany.....	548	393	941
Italy.....	125	101	226
Poland.....	82	101	183
Ireland.....	75	24	99
Russia.....	75	40	115
Canada.....	53	34	87
England.....	61	28	80
Austria.....	35	15	50
All other*.....	116	62	178
Total.....	1,997	1,143	3,140
			<i>Percen</i>
United States.....	31.4	13.1	44.5
Germany.....	35.2	25.2	60.4
Italy.....	27.7	22.4	50.1
Poland.....	25.2	31.1	58.3
Ireland.....	28.5	9.2	37.7
Russia.....	30.1	16.1	46.2
Canada.....	25.3	16.3	41.6
England.....	33.2	15.2	48.4
Austria.....	34.7	14.8	49.5
All other.....	30.5	16.3	46.8
Total.....	31.4	18.0	49.4

* This includes: Scotland 64, Jews (reported separately for Rochester only) 58, Holland 41, Hungary 36, Wales 32, Switzerland 29, Sweden 24, France 19, Denmark 15, Roumania 7, Norway 6, Belgium 4, Lithuania 3, Finland 3, Turkey 2, Portugal 1, Armenia 1, Syria 1, South America 1, indefinite 4, nativity of father not stated 29.

WHOM CERTIFICATES WERE ISSUED IN 1914: BY NATIVITY OF FATHER, AGE
SEX

AGES						Total		
14½ to 15 years			15 to 16 years					
Male	Female	Total	Male	Female	Total	Male	Female	Total
bers								
460	223	683	494	287	781	1,781	855	2,636
203	130	333	162	122	284	913	645	1,558
75	45	120	64	41	105	264	187	451
44	47	91	32	19	51	158	167	325
45	19	64	72	28	100	192	71	263
43	27	70	36	28	64	154	95	249
38	14	52	44	26	70	135	74	209
29	10	39	32	24	56	122	62	184
10	6	16	22	13	35	67	34	101
50	32	82	72	48	120	238	142	380
997	553	1,550	1,030	636	1,666	4,024	2,332	6,356
ages								
17.4	8.5	25.9	18.7	10.9	29.6	67.6	32.4	100.0
13.0	8.4	21.4	10.4	7.8	18.2	58.6	41.4	100.0
16.6	10.0	26.6	14.2	9.1	23.3	58.5	41.5	100.0
13.5	14.5	28.0	9.9	5.8	15.7	48.6	51.4	100.0
17.1	7.2	24.3	27.4	10.6	38.0	73.0	27.0	100.0
17.3	10.8	28.1	14.5	11.2	25.7	61.8	38.2	100.0
18.2	6.7	24.9	21.1	12.4	33.5	64.6	35.4	100.0
15.8	5.4	21.2	17.4	13.0	30.4	66.3	33.7	100.0
9.9	5.9	15.8	21.8	12.9	34.7	66.3	33.7	100.0
13.2	8.4	21.6	19.0	12.6	31.6	62.6	37.4	100.0
15.7	8.7	24.4	16.2	10.0	26.2	63.3	36.7	100.0

The age distribution for all children who received certificates in the up-state cities in 1914 was — 14 to 14½ years, 49.4 per cent; 14½ to 15 years, 24.4 per cent; 15 to 16 years, 26.2 per cent. Compared with Table 4 these figures show that the children in the up-state cities go to work earlier than do the children in New York City. This is due partly to the difference in nativity distribution, since Russia, with a low proportion of children at work early, is largely represented in New York City and only slightly represented up-state, while Germany, with a high proportion of children at work early, is more largely represented up-state than in New York City. This does not account for the whole difference in time of sending children to work, since every country represented up-state sends its children to work earlier than the same country represented in New York City.

Comparing one country with another, the children in up-state cities whose fathers were born in Germany go to work earliest, followed by Poland, Italy and Austria in the order named. The children whose fathers were born in Ireland go to work latest, followed by Canada, United States and Russia.

The sex distribution by nativity of father shows that more Polish girls than boys received certificates in up-state cities in 1914; this difference is especially noticeable in the first age group. Next in order was Italy, Germany and Russia. As in New York City, the Irish girls up-state went to work latest. In the total, Irish boys number 170 per cent more than Irish girls. Following Ireland in order are the United States, England, Austria and Canada.

Table 6 shows the distribution of children in New York City to whom certificates were issued in 1914, by age and sex, and by nativity of father.

TABLE 6. PERCENTAGE DISTRIBUTION OF CHILDREN IN NEW YORK CITY TO
ITY OF

NATIVITY OF FATHER	14 to 14½ years		
	Male	Female	Total
			<i>Num</i>
Russia.....	1,221	770	1,991
Italy.....	971	1,103	2,074
Austria.....	750	579	1,329
Roumania.....	99	50	149
Hungary.....	92	62	154
Total.....	3,133	2,564	5,697
Germany.....	1,032	824	1,856
Ireland.....	659	287	946
England.....	148	79	227
Sweden.....	89	53	142
Norway.....	58	44	102
Scotland.....	58	28	86
France.....	32	20	52
Total.....	2,076	1,335	3,411
United States.....	1,948	1,022	2,970
All other*.....	208	123	331
Grand total.....	7,365	5,044	12,409
			<i>Percent</i>
Russia.....	16.6	15.3	16.1
Italy.....	13.2	21.9	16.7
Austria.....	10.2	11.5	10.7
Roumania.....	1.3	1.0	1.2
Hungary.....	1.3	1.2	1.2
Total.....	42.6	50.9	45.9
Germany.....	14.0	16.3	15.0
Ireland.....	8.9	5.7	7.6
England.....	2.0	1.6	1.8
Sweden.....	1.2	1.0	1.2
Norway.....	.8	.9	.8
Scotland.....	.8	.5	.7
France.....	.4	.4	.4
Total.....	28.1	26.4	27.5
United States.....	26.5	20.3	23.9
All other.....	2.8	2.4	2.7
Grand total.....	100.0	100.0	100.0

* This includes Canada 136, Switzerland 118, Denmark 100, Poland 54, Holland 48, Finland 48, West Indies 48, Turkey 32, Spain 30, Belgium 19, Wales 15, Cuba 14, Greece 11, Australia 11, South America 9, Syria 8, Mexico 3, Portugal 3, Egypt 3, Japan 2, China 2, indefinite 17, nativity of father not stated 86.

The above table shows that 45.0 per cent of all certificates were granted to children whose fathers belong to the group commonly designated as the new immigration, viz., Russia, Italy, Austria, Roumania and Hungary. The old immigration, including Germany, Ireland, England, Sweden, Norway, Scotland and France, furnished 27.2 per cent. The children whose fathers were born in the United States aggregated 25.3 per cent of the total. All others furnished 2.5 per cent.

Of the countries included in the new immigration group, Russia, Italy and Austria lead in the order named; Roumania and Hungary have small percentages each. Of the countries included in the group known as the old immigration, Germany leads, followed by Ireland. France, Scotland and Norway have less than 1.0 per cent each and Sweden and England have only small percentages.

The sex distribution shows that of the total sex groups the new immigration supplied a greater proportion of girls than of boys. This is especially true of Italy, where the difference is more marked in the early age group than in the later, and of Austria and Russia. Of the old immigration, Germany furnished a greater proportion of girls than of boys. This was more than offset by Ireland which furnished a greater proportion of boys than of girls, so that the totals for the group showed a greater proportion of boys than of girls. The United States furnished a greater proportion of boys than of girls; the difference was greater in the early age groups than in the later group.

Table 7 presents for the total of first and second class cities, outside of New York City, the same information that Table 6 presents for New York City.

TABLE 7. PERCENTAGE DISTRIBUTION OF CHILDREN IN UP-STATE CITIES TO NATIVITY

NATIVITY OF FATHER	14 to 14½ years		
	Male	Female	Total
			Num
Italy.....	125	101	226
Poland.....	82	101	183
Russia.....	75	40	115
Austria.....	35	15	50
Total.....	317	257	574
Germany.....	548	393	941
Ireland.....	75	24	99
Canada.....	53	34	87
England.....	61	28	89
Scotland.....	26	4	30
France.....	7	4	11
Total.....	770	487	1,257
United States.....	827	345	1,172
All other*.....	83	54	137
Grand total.....	1,997	1,143	3,140
			Percent
Italy.....	6.3	8.8	7.2
Poland.....	4.1	8.8	5.8
Russia.....	3.8	3.5	3.7
Austria.....	1.7	1.4	1.6
Total.....	15.9	22.5	18.3
Germany.....	27.4	34.4	30.0
Ireland.....	3.8	2.1	3.1
Canada.....	2.7	3.0	2.8
England.....	3.1	2.5	2.8
Scotland.....	1.3	.3	1.0
France.....	.3	.3	.3
Total.....	38.6	42.6	40.0
United States.....	41.4	30.2	37.3
All other.....	4.1	4.7	4.4
Grand total.....	100.0	100.0	100.0

* This includes: Jews (reported separately for Rochester only) 58, Holland 41, Hungary 36, Wales 32, Switzerland 29, Sweden 24, Denmark 15, Roumania 7, Norway 6, Belgium 4, Lithuania 3, Finland 3, Turkey 2, Portugal 1, Armenia 1, Syria 1, South America 1, indefinite 4, nativity of father not stated 29.

**WHOM CERTIFICATES WERE ISSUED IN 1914: BY AGE AND SEX, AND BY
OF FATHER**

[illegible]

In the up-state cities the new immigration, including Italy, Poland, Russia and Austria, furnished 17.7 per cent of the children to whom certificates were granted in 1914; the old immigration, including Germany, Ireland, Canada, England, Scotland and France, furnished 36.1 per cent; the United States furnished 41.5 per cent, and all others furnished 4.7 per cent.

A comparison of Table 7 with Table 6 shows that New York City issued a much larger proportion of certificates to the children of the new immigration than did the up-state cities and that conversely, the up-state cities issued a larger proportion of certificates to children of the old immigration and to those whose fathers were born in the United States.

In the up-state cities Italy leads in the group designated as the new immigration, followed by Poland, Russia and Austria in the order named. In the old immigration group, Germany furnished over two-thirds of all children to whom certificates were issued. France had less than 1.0 per cent, while Scotland, England, Canada and Ireland had small percentages each.

The sex distribution in the up-state cities shows that both the new immigration group and the old immigration group furnished a greater proportion of girls than of boys. This is true especially of Poland, Italy and Russia in the new immigration group and of Germany in the old immigration group. The United States furnished a greater proportion of boys than of girls.

TABLE A—CHILD LABOR CERTIFICATES REPORTED ISSUED IN YEAR ENDED
SEPTEMBER 30, 1915

LOCALITY	Certifi- cates issued	LOCALITY	Certifi- cates issued
Albany County.....	410	Chenango County.....	31
Albany.....	247	Bainbridge.....	2
Cohoes.....	92	New Berlin.....	2
Green Island.....	13	Norwich.....	7
Watervliet.....	55	Oxford.....	7
Remainder.....	3	Sherburne.....	10
		Remainder.....	3
Allegany County.....	12	Clinton County.....	6
Andover.....	4	Champlain.....	1
Belmont.....	2	Keeseville.....	1
Friendship.....	1	Plattsburg.....	4
Wellsville.....	5		
Bronx County (See under New York City)		Columbia County.....	57
Broome County.....	131	Hudson.....	17
Binghamton.....	113	Kinderhook.....	4
Deposit.....	1	Philmont.....	15
Endicott.....	6	Valatie.....	7
Lestershire.....	1	Remainder.....	14
Union.....	10		
Cattaraugus County.....	57	Cortland County.....	82
Franklinville.....	2	Cortland.....	37
Gowanda.....	4	Homer.....	40
Olean.....	46	McGraw.....	4
Remainder.....	5	Marathon.....	1
Cayuga County.....	94	Delaware County.....	8
Auburn.....	91	Delhi.....	1
Port Byron.....	1	Sidney.....	1
Remainder.....	2	Walton.....	5
		Remainder.....	1
Chautauque County.....	250		
Brocton.....	1	Dutchess County.....	127
Dunkirk.....	65	Beacon.....	42
Falconer.....	9	Millerton.....	1
Forestville.....	6	Poughkeepsie.....	56
Fredonia.....	18	Red Hook.....	1
Jamestown.....	131	Rhinebeck.....	1
Silver Creek.....	16	Tivoli.....	1
Remainder.....	4	Wappingers Falls.....	6
		Remainder.....	19
Chemung County.....	61		
Elmira.....	50	Erie County.....	3,106
Elmira Heights.....	3	Akron.....	7
Horseheads.....	2	Angola.....	1
Remainder.....	6	Blasdell.....	2
		Buffalo.....	2,930
		Depew.....	16
		East Aurora.....	8
		Farnham.....	6
		Hamburg.....	10
		Kenmore.....	1
		Lackawanna.....	41
		Lancaster.....	15
		Springville.....	5
		Tonawanda.....	48
		Williamsville.....	6
		Remainder.....	10

TABLE A—CHILD LABOR CERTIFICATES—(Continued)

LOCALITY	Certifi- cates issued	LOCALITY	Certifi- cates issued
Essex County.....	15	Lewis County.....	6
Lake Placid.....	4	Lowville.....	4
Ticonderoga.....	11	Remainder.....	2
Franklin County.....	23	Livingston County.....	16
Malone.....	2	Avon.....	10
Saranac Lake.....	5	Geneseo.....	1
Tupper Lake.....	4	Mount Morris.....	3
Remainder.....	12	Nunda.....	1
Fulton County.....	102	Remainder.....	1
Dolgeville (See Herkimer)		Madison County.....	95
Gloversville.....	94	Canastota.....	7
Mayfield.....	2	Casenovia.....	2
Northville.....	3	Hamilton.....	6
Remainder.....	3	Oneida.....	80
Genesee County.....	39	Monroe County.....	1,654
Batavia.....	25	Brockport.....	6
Le Roy.....	12	East Rochester.....	5
Oakfield.....	2	Fairport.....	12
Greene County.....	39	Pittsford.....	3
Athens.....	1	Rochester.....	1,575
Catskill.....	31	Spencerport.....	2
Coxsackie.....	5	Webster.....	10
Remainder.....	2	Remainder.....	41
Herkimer County.....	110	Montgomery County.....	254
Dolgeville.....	22	Amsterdam.....	198
Frankfort.....	14	Canajoharie.....	6
Herkimer.....	31	Fort Johnson.....	1
Ilion.....	4	Fort Plain.....	12
Little Falls.....	34	Fonda.....	3
Middleville.....	3	Hagaman.....	6
Remainder.....	2	Nelliston.....	1
Jefferson County.....	37	St. Johnsville.....	24
Alexandria Bay.....	4	Remainder.....	3
Carthage.....	2	Nassau County.....	57
Dexter.....	1	Farmingdale.....	1
Theresa.....	2	Floral Park.....	4
Watertown.....	26	Freeport.....	6
West Carthage.....	1	Hempstead.....	15
Remainder.....	1	Mineola.....	5
Kings County (See Brooklyn under New York City)		Rockville Center.....	2
		Sea Cliff.....	1
		Remainder.....	23

TABLE A—CHILD LABOR CERTIFICATES—(Continued)

LOCALITY	Certificates issued	LOCALITY	Certificates issued
New York City.....	36,060	Orleans County.....	94
Bronx.....	3,683	Albion.....	34
Brooklyn.....	12,402	Holley.....	16
Manhattan.....	16,812	Medina.....	25
Queens.....	2,666	Remainder.....	19
Richmond.....	497		
Niagara County.....	146	Oswego County.....	147
Barker.....	1	Fulton.....	30
La Salle.....	2	Mexico.....	1
Lockport.....	34	Oswego.....	95
Middleport.....	15	Phoenix.....	5
Niagara Falls.....	41	Pulaski.....	5
North Tonawanda.....	51	Remainder.....	11
Remainder.....	2		
Oneida County.....	624	Otsego County.....	16
Boonville.....	3	Oneonta.....	7
Camden.....	13	Richfield Springs.....	8
Clayville.....	12	Remainder.....	1
Clinton.....	20		
New Hartford.....	23	Putnam County.....	8
Rome.....	95	Brewster.....	4
Sangerfield.....	2	Cold Spring.....	4
Utica.....	397		
Vernon.....	2	Queens County (See under New York City)	
Whitesboro.....	20	Rensselaer County.....	216
Yorkville.....	5	Castleton.....	6
Remainder.....	32	Hoosick Falls.....	12
Onondaga County.....	669	Nassau.....	1
East Syracuse.....	6	Rensselaer.....	18
Liverpool.....	1	Troy.....	173
Manlius.....	3	Valley Falls.....	3
Marcellus.....	12	Remainder.....	3
Skaneateles.....	6		
Solvay.....	15	Richmond County (See under New York City)	
Syracuse.....	613	Rockland County.....	54
Remainder.....	13	Haverstraw.....	11
Ontario County.....	33	Hillburn.....	2
Canandaigua.....	9	Nyack.....	4
Clifton Springs.....	5	Spring Valley.....	10
Geneva.....	13	Suffern.....	10
Naples.....	1	West Haverstraw.....	8
Phelps.....	2	Remainder.....	9
Shortsville.....	2		
Remainder.....	1	St. Lawrence County.....	43
Orange County.....	98	Gouverneur.....	3
Cornwall.....	2	Massena.....	8
Highland Falls.....	1	Norwood.....	1
Middletown.....	28	Ogdensburg.....	17
Montgomery.....	2	Potsdam.....	7
Newburgh.....	30	Remainder.....	7
Port Jervis.....	12		
Walden.....	6		
Warwick.....	8		
Remainder.....	9		

TABLE A—CHILD LABOR CERTIFICATES—(Continued)

LOCALITY	Certifi- cates issued	LOCALITY	Certifi- cates issued
Saratoga County.....	39	Sullivan County.....	1
Ballston Spa.....	3		
Corinth.....	3	Tioga County.....	17
Mechanicville.....	7		
Saratoga Springs.....	5	Owego.....	10
Schuylerville.....	2	Waverly.....	6
South Glens Falls.....	1	Remainder.....	1
Stillwater.....	2		
Waterford.....	14	Tompkins County.....	22
Remainder.....	2		
Schenectady County.....	245	Groton.....	3
		Ithaca.....	11
Schenectady.....	221	Trumansburg.....	4
Scotia.....	16	Remainder.....	4
Remainder.....	8		
Schoharie County.....	4	Ulster County.....	138
Esperance.....	2	Ellenville.....	5
Richmondville.....	2	Kingston.....	116
		Marlboro.....	1
Schuyler County.....	8	Rifton.....	3
		Rosendale.....	2
Montour Falls.....	1	Saugerties.....	2
Watkins.....	3	Remainder.....	9
Remainder.....	4		
Seneca County.....	36	Warren County.....	33
Seneca Falls.....	11	Glens Falls.....	29
Waterloo.....	25	Remainder.....	4
Steuben County.....	65	Washington County.....	36
Avoca.....	1	Cambridge.....	1
Bath.....	2	Fort Ann.....	1
Canisteo.....	2	Fort Edward.....	5
Corning.....	9	Granville.....	10
Hammondsport.....	6	Greenwich.....	7
Hornell.....	32	Hudson Falls.....	2
Wayland.....	8	Whitehall.....	10
Remainder.....	5		
Suffolk County.....	83	Wayne County.....	68
Amityville.....	3	Clyde.....	3
Babylon.....	4	Lyons.....	9
Greenport.....	15	Newark.....	13
Northport.....	2	Palmyra.....	4
Patchogue.....	18	Wolcott.....	1
Sag Harbor.....	14	Remainder.....	38
Remainder.....	27		

TABLE A—CHILD LABOR CERTIFICATES—(Concluded)

LOCALITY	Certifi- cates issued	LOCALITY	Certifi- cates issued
Westchester County.....	464	Wyoming County.....	26
Bronxville.....	2	Attica.....	4
Croton-on-Hudson.....	1	Castile.....	1
Dobbs Ferry.....	1	Perry.....	12
Hastings-on-Hudson.....	1	Silver Springs.....	3
Mamaroneck.....	1	Warsaw.....	5
Mount Kisco.....	6	Remainder.....	1
Mount Vernon.....	106		
New Rochelle.....	52		
North Pelham.....	2		
North Tarrytown.....	2		
Ossining.....	6	Yates County.....	3
Peekskill.....	17		
Port Chester.....	19		
Rye.....	3	Dundee.....	1
Tarrytown.....	4	Penn Yan.....	1
Tuckahoe.....	10	Remainder.....	1
White Plains.....	29		
Yonkers.....	190		
Remainder.....	12	Total state.....	46,375

TABLE B. DISTRIBUTION OF CHILDREN TO WHOM CERTIFICATES WERE ISSUED
MENT OF LABOR: BY

City	TOTAL CERTIFICATES ISSUED			NUMBER OF		
	Male	Female	Total	14 to 14½ years		
				Male	Female	Total
Albany.....	201	118	319	87	42	129
Amsterdam.....	36	41	77	20	23	43
Auburn.....	67	41	108	29	15	44
Beacon.....	23	20	43	6	8	14
Binghamton.....	84	60	144	28	25	53
Buffalo.....	1,908	1,076	2,984	986	556	1,542
Canandaigua.....	10	6	16	2	.....	2
Cohoes.....	48	33	81	17	14	31
Corning.....	9	13	22	3	2	5
Cortland.....	12	5	17	3	1	4
Dunkirk.....	34	56	90	13	18	31
Elmira.....	43	29	72	11	6	17
Fulton.....	46	22	68	23	9	32
Geneva.....	1	9	10	1	2	3
Glens Falls.....	3	7	10	2	3	5
Gloversville.....	47	53	100	20	18	38
Hornell.....	28	31	59	12	7	19
Hudson.....	6	.....	6	6	.....	6
Ithaca.....	9	7	16	3	4	7
Jamestown.....	91	56	147	41	20	61
Kingston.....	49	69	118	25	35	60
Lackawanna.....	34	4	38	9	.....	9
Little Falls.....	20	13	33	11	7	18
Lockport.....	23	25	48	9	7	16
Middletown.....	7	12	19	3	2	5
Mount Vernon.....	70	34	104	25	10	35
Newburgh.....	25	18	43	3	2	5
New Rochelle.....	14	9	23	8	4	12
New York City.....	18,683	13,454	32,137	7,365	5,044	12,409
Manhattan.....	8,557	6,557	15,094	3,378	2,546	5,924
Brooklyn.....	6,515	4,420	10,935	2,579	1,583	4,162
Bronx.....	1,975	1,269	3,244	776	412	1,188
Queens.....	1,418	1,024	2,442	561	458	1,019
Richmond.....	258	184	442	71	45	116
Niagara Falls.....	74	43	117	34	19	53
North Tonawanda.....	17	17	34	4	5	9
Olean.....	23	14	37	6	1	7
Oneida.....	27	32	59	12	15	27
Oneonta.....	6	5	11	1	.....	1
Oswego.....	57	83	140	22	43	65
Plattsburg.....	4	1	5	.....	1	1
Port Jervis.....	15	16	31	3	2	5
Poughkeepsie.....	60	45	105	23	28	51
Rensselaer.....	15	15	30	1	5	6
Rochester.....	809	569	1,378	447	295	742
Rome.....	55	44	99	22	17	39
Salamanca.....	16	12	28	8	4	12
Schenectady.....	153	47	200	56	14	70
Syracuse.....	448	224	672	205	114	319
Tonawanda.....	32	18	50	18	9	27
Troy.....	98	75	173	46	22	68
Utica.....	264	176	440	138	92	230
Watertown.....	18	9	27	3	1	4
Watervliet.....	32	22	54	6	9	15
Yonkers.....	143	47	190	32	8	40
Remainder of State.....	1,039	676	1,715	337	210	547
Total.....	25,036	17,511	42,547	10,195	6,798	16,993

FROM OCTOBER 1, 1913, TO SEPTEMBER 30, 1914, AS REPORTED TO THE DEPARTMENT, SEX AND LOCALITY

CERTIFICATES ISSUED TO CHILDREN OF AGE OF —						WITH FATHER BORN IN —		
14½ to 15 years			15 to 16 years			United States	Other countries	Country not stated
Male	Female	Total	Male	Female	Total			
55	34	89	59	42	101	180	133	6.
9	5	14	7	13	20	28	47	2
13	8	21	25	18	43	58	49	1
7	4	11	10	8	18	26	9	8
23	19	42	33	16	49	54	49	41
510	258	768	412	262	674	1,191	1,786	7
2	2	4	6	4	10	13	3	.....
12	9	21	19	10	29	36	44	1
.....	2	2	6	9	15	11	11	.....
3	2	5	6	2	8	11	5	1
12	12	24	9	26	35	20	70	.....
17	10	27	15	13	28	40	24	8
7	3	10	16	10	26	43	25	.....
.....	3	3	.....	4	4	4	6	.....
.....	2	2	.....	2	3	6	4	.....
15	11	26	12	24	36	54	46	.....
6	5	11	10	19	29	48	9	2
.....	.....	.....	.....	.....	.....	2	4	.....
1	2	3	5	1	6	11	4	1
19	12	31	31	24	55	31	114	2
12	18	30	12	16	28	76	40	2
10	.....	10	15	4	19	7	30	1
4	2	6	5	4	9	17	16	.....
8	6	14	6	12	18	26	20	2
1	5	6	3	5	8	13	6	.....
23	10	33	22	14	36	44	60	.....
4	4	8	18	12	30	27	16	.....
3	2	5	3	3	6	4	19	.....
5,023	3,444	8,467	6,295	4,966	11,261	8,144	23,907	86
2,336	1,659	3,995	2,823	2,352	5,175	2,613	12,450	31
1,711	1,148	2,859	2,225	1,689	3,914	3,434	7,460	41
542	340	882	657	517	1,174	956	2,287	1
379	244	623	478	322	800	955	1,474	13
55	53	108	112	86	198	186	236	.....
21	16	37	19	8	27	40	75	2
3	3	6	10	9	19	15	18	1
6	3	9	11	10	21	20	15	2
11	9	20	4	8	12	37	22	.....
.....	2	2	5	3	8	10	1	.....
13	23	36	22	17	39	99	41	.....
.....	.....	.....	4	.....	4	5	.....	.....
6	1	7	6	13	19	27	4	.....
13	6	19	24	11	35	41	40	24
6	2	8	8	8	16	20	9	1
154	133	287	208	141	349	573	802	3
21	16	37	12	11	23	70	29	.....
3	3	6	5	5	10	16	11	1
46	8	54	51	25	76	80	120	.....
96	47	143	147	63	210	289	376	7
5	3	8	9	6	15	18	31	1
32	20	52	20	33	53	90	82	1
67	44	111	59	40	99	161	275	4
5	4	9	10	4	14	13	10	4
11	2	13	15	11	26	25	29	.....
37	9	46	74	30	104	72	117	1
284	186	470	418	280	698	981	674	60
6,639	4,434	11,073	8,202	6,279	14,481	12,927	29,337	283

TABLE C. DISTRIBUTION OF CHILDREN TO WHOM CERTIFICATES WERE ISSUED
MENT OF LABOR: BY NATIVITY

CITY	NUMBER OF CERTIFICATES ISSUED								
	United States	Austria	Canada	Denmark	England	Finland	France	Germany	Greece
Albany.....	180	8	5	....	7	1	....	44	.....
Amsterdam.....	28	4	2	2	6	....	....	9	.....
Auburn.....	58	7	3	....	3	....	....	7	.....
Beacon.....	26	1	....	....	1	....	....	....	.....
Binghamton.....	54	11	2	....	2	....	....	5	.....
Buffalo.....	1,191	40	119	2	69	....	7	885	.....
Canandaigua.....	13	....	....	....	....	....	....	....	.....
Cohoes.....	36	2	23	....	7	....	....	1	.....
Corning.....	11	1	....	....	1	....	1	2	.....
Cortland.....	11	....	....	....	1	....	....	1	.....
Dunkirk.....	20	1	2	1	....	....	....	24	.....
Elmira.....	40	1	....	....	....	....	....	8	.....
Fulton.....	43	4	7	....	4	....	....	1	.....
Geneva.....	4	....	....	....	....	....	....	....	.....
Glens Falls.....	6	....	3	1	....	....	....	....	.....
Gloversville.....	54	2	1	1	8	....	1	9	.....
Hornell.....	48	....	....	....	1	....	....	5	.....
Hudson.....	2	1	....	....	....	....	....	....	.....
Ithaca.....	11	1	....	....	....	....	....	....	.....
Jamestown.....	31	1	1	3	11	....	....	2	.....
Kingston.....	76	9	....	....	2	....	....	18	.....
Lackawanna.....	7	15	....	....	1	....	....	5	.....
Little Falls.....	17	3	....	1	2	....	....	3	.....
Lockport.....	26	1	4	....	2	....	....	8	.....
Middletown.....	13	....	....	1	....	....	....	2	.....
Mount Vernon.....	44	....	2	....	2	....	1	13	.....
Newburgh.....	27	....	....	....	3	....	....	4	.....
New Rochelle.....	4	....	....	....	....	....	1	3	.....
New York.....	8,144	3,242	138	100	710	48	134	4,164	11
Manhattan.....	2,613	2,516	50	26	257	24	72	1,366	9
Brooklyn.....	3,434	586	65	50	292	15	26	1,382	2
Bronx.....	956	286	10	15	80	7	16	553	....
Queens.....	956	104	8	8	63	2	19	777	....
Richmond.....	186	10	3	1	18	....	1	86	....
Niagara Falls.....	40	3	17	....	11	....	1	14	....
North Tonawanda.....	15	1	....	....	....	....	....	15	....
Olean.....	20	4	....	....	....	....	....	7	....
Oneida.....	37	....	....	....	1	....	2	11	....
Oneonta.....	10	....	....	....	....	....	....	....	....
Oswego.....	99	1	7	....	3	....	....	9	....
Plattsburg.....	5	....	....	....	....	....	....	....	....
Port Jervis.....	27	....	....	....	....	....	....	3	....
Poughkeepsie.....	41	2	....	....	1	....	....	11	....
Rensselaer.....	20	1	1	....	1	....	....	1	....
Rochester.....	573	7	59	1	61	2	8	329	....
Rome.....	70	1	1	....	....	....	....	7	....
Salamanoa.....	16	....	....	....	....	....	....	6	....
Schenectady.....	80	14	2	2	8	....	1	29	....
Syracuse.....	289	7	15	2	18	....	1	171	....
Tonawanda.....	18	1	5	....	1	....	....	21	....
Troy.....	90	1	6	4	4	....	....	25	....
Utica.....	161	6	3	2	14	....	1	67	....
Watertown.....	13	....	6	....	3	....	....	....	....
Watervliet.....	25	1	1	....	5	....	1	2	....
Yonkers.....	72	23	....	2	3	....	1	8	....
Remainder of State.....	981	41	55	5	58	....	2	164	....
Total.....	12,927	3,464	488	130	1,035	51	163	6,123	11

* Includes 58 certificates on which the country of birth of child's father was reported as Jewish.

FROM OCTOBER 1, 1912, TO SEPTEMBER 30, 1914, AS REPORTED TO THE DEPART-
OF FATHER AND LOCALITY

TO CHILDREN WHOSE FATHERS WERE BORN IN —												
Hol-land	Hun-gary	Ire-land	Italy	Nor-way	Poland land	Rou-manian	Rus-sia	Scot-land	Swe-den	Swits-erland	Wales	All other coun-tries
3	.....	13	12	.....	1	2	38	2	1	1	.....	.....
.....	.....	12	8	.....	.....	.....	2	.....	.....	1	.....	1
.....	.....	14	13	1	1	.....	.....	.....	.....	.....	.....	.....
.....	2	3	2	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	11	11	2	.....	.....	.....	1	1	1	.....	.....	2
4	15	84	157	2	274	1	81	27	13	4	2	.....
.....	.....	3	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	1	7	.....	.....	2	.....	.....	.....	1	.....	.....	.....
.....	.....	.....	5	.....	.....	.....	1	.....	.....	.....	.....	.....
.....	.....	.....	3	.....	.....	.....	.....	.....	.....	.....	.....	.....
1	.....	1	10	.....	27	.....	2	.....	1	.....	.....	.....
.....	1	3	4	.....	2	.....	3	.....	2	.....	.....	.....
.....	2	.....	3	.....	2	.....	.....	.....	.....	1	.....	1
.....	.....	2	3	.....	.....	.....	.....	.....	.....	.....	.....	1
.....	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	2	8	1	.....	.....	11	1	.....	.....	.....	1
.....	.....	.....	1	.....	.....	.....	1	.....	.....	1	.....	.....
.....	1	.....	2	.....	.....	.....	1	.....	.....	.....	.....	.....
.....	.....	1	9	2	.....	.....	1	.....	83	.....	.....	.....
.....	.....	1	1	1	3	.....	5	.....	.....	.....	.....	.....
.....	2	3	1	.....	2	.....	1	.....	.....	.....	.....	.....
.....	2	2	2	.....	1	.....	.....	.....	.....	.....	.....	.....
.....	.....	1	4	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	2	1	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	2	26	2	.....	1	6	3	1	1	.....	.....
.....	1	3	.....	.....	.....	.....	3	.....	1	.....	.....	1
.....	.....	1	13	.....	.....	.....	.....	.....	1	.....	.....	.....
48	378	2,748	4,483	303	54	405	5,945	280	402	118	15	203
20	253	1,515	2,415	32	10	252	3,490	95	94	47	5	102
12	66	852	1,468	241	13	103	1,904	113	225	31	7	67
9	45	251	350	9	2	49	482	30	54	18	3	18
7	14	108	198	8	24	1	61	19	21	21	.....	11
.....	.....	22	52	13	5	.....	8	3	8	1	.....	5
.....	1	9	14	.....	1	.....	2	1	1	.....	.....	.....
.....	.....	2	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	2	.....	1	.....	1	.....	.....	.....	.....	.....
.....	.....	.....	8	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	7	9	.....	1	.....	1	.....	.....	1	.....	2
.....
.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
1	.....	7	11	.....	3	.....	4	.....	.....	.....	.....	.....
.....	.....	3	.....	.....	2	.....	.....	.....	.....	.....	.....	.....
32	2	37	106	2	24	.....	36	12	6	10	1	*67
.....	.....	3	12	.....	.....	.....	.....	1	.....	2	2	.....
.....	.....	.....	.....	.....	5	.....	.....	.....	.....	.....	.....	.....
1	1	9	21	.....	7	2	11	4	1	2	2	3
.....	2	59	40	1	13	2	31	7	1	5	.....	1
.....	2	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	24	6	.....	1	.....	8	1	.....	.....	1	1
.....	.....	12	100	.....	4	.....	28	3	1	5	26	3
.....	.....	1	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	9	7	.....	.....	.....	2	1	.....	.....	.....	.....
1	16	25	9	1	1	.....	16	8	1	2	.....	.....
24	13	43	152	1	22	.....	37	11	16	4	2	14
125	453	3,169	5,275	317	454	413	6,279	343	534	158	51	301

TABLE C. DISTRIBUTION OF CHILDREN TO WHOM CERTIFICATES WERE ISSUED FROM OCTOBER 1, 1913, TO SEPTEMBER 30, 1914, AS REPORTED TO THE DEPARTMENT OF LABOR: BY NATIVITY OF FATHER AND LOCALITY (Concluded.)

City	NUMBER OF CERTIFICATES ISSUED TO CHILDREN WHOSE FATHERS WERE BORN IN—		
	Total foreign countries	Country not stated	Grand total
Albany.....	133	6	319
Amsterdam.....	47	2	77
Auburn.....	49	1	108
Beacon.....	9	8	43
Binghamton.....	40	41	144
Buffalo.....	1,786	7	2,984
Canandaigua.....	3	.....	16
Cohoes.....	44	1	81
Corning.....	11	.....	22
Cortland.....	5	1	17
Dunkirk.....	70	.....	90
Elmira.....	24	8	72
Fulton.....	25	.....	68
Geneva.....	6	.....	10
Glens Falls.....	4	.....	10
Gloversville.....	46	.....	100
Hornell.....	9	2	59
Hudson.....	4	.....	6
Ithaca.....	4	1	16
Jamestown.....	114	2	147
Kingston.....	40	2	118
Lackawanna.....	30	1	38
Little Falls.....	16	.....	33
Lockport.....	20	2	48
Middletown.....	6	.....	19
Mount Vernon.....	60	.....	104
Newburgh.....	16	.....	43
New Rochelle.....	19	.....	23
New York.....	23,907	86	32,137
Manhattan.....	12,450	31	15,094
Brooklyn.....	7,460	41	10,935
Bronx.....	2,287	1	3,244
Queens.....	1,474	13	2,442
Richmond.....	236	.....	422
Niagara Falls.....	75	2	117
North Tonawanda.....	18	1	34
Olean.....	15	2	37
Oneida.....	22	.....	59
Oneonta.....	1	.....	11
Oswego.....	41	.....	140
Plattsburg.....	.....	.....	5
Port Jervis.....	4	.....	31
Poughkeepsie.....	40	24	105
Rensselaer.....	9	1	30
Rochester.....	802	3	1,378
Rome.....	29	.....	99
Salamanca.....	11	1	28
Schenectady.....	120	.....	200
Syracuse.....	376	7	672
Tonawanda.....	31	1	50
Troy.....	82	1	173
Utica.....	275	4	440
Watertown.....	10	4	27
Watervliet.....	29	.....	54
Yonkers.....	117	1	190
Remainder of State.....	674	60	1,715
Total.....	29,337	283	42,547

Part VI
REPORT OF BUREAU OF EMPLOYMENT

[255]

(1) REPORT OF THE DIRECTOR OF BUREAU OF EMPLOYMENT

To the Industrial Commission:

The report of the Bureau of Employment, for the year ending September 30, 1915, is herewith respectfully submitted. In connection with the report, there are also submitted separate reports from each branch office and statistical tables showing in detail the operations of the Bureau.

The necessity for public employment offices, both in this country and abroad, is now well recognized. Already twenty-four states of the Union have state systems. Nearly every European country has them, and they have been especially successful in Great Britain and Germany. There are now several bills before Congress calling for the establishment of a Federal system, for the purpose of bringing about co-operation of the different state systems.

The law establishing the Bureau of Employment in this state was approved in April, 1914. A civil service examination was held for the office of Director and for a list of superintendents. The Director was appointed in November, 1914, and the first branch office was established in Brooklyn, on January 4, 1915. The next branch office was opened in Syracuse on January 25. The branch office in Rochester was opened February 4, and the one in Buffalo on February 8. The last branch office opened was in Albany, on April 23. The Brooklyn branch office was at first used as a sort of training school for the workers in other parts of the state. Superintendents and others were required to spend a few weeks in this office for the purpose of getting practical training.

The Bureau of Employment law requires that all employees shall be selected from civil service lists. At the time the first offices were established, the only list available for the Bureau was that of superintendents. There were no lists from which assistants to the superintendents could be selected. In this emergency,

for the time being, persons were taken from the stenographic list. After repeated requests, the State Civil Service Commission granted an examination for assistant superintendents, for men and women. Provisional appointments were made which held good up until the assistant superintendent list was certified. From this list permanent appointments were made, many of the provisional appointees being continued in their positions. The present branch offices are each in charge of a superintendent, with an office force of from three to nine, consisting of assistant superintendents, file clerks, stenographers and messengers.

The first year of any newly established bureau will necessarily be one of much trial. This was especially true of the Bureau of Employment. It was established at a time when unemployment in this country was in its most acute stage. Thousands of able-bodied and reliable employees were vainly searching for work. Mills were shut down entirely, or employing only a minimum force. Naturally, as soon as a branch office was opened it was overwhelmed by the hundreds who came to register. The corps of workers in the different offices, while well versed in the theory of public employment offices, all had to learn the business from the ground up. The record and card systems instituted for the use of the offices had to be tried out and changes made where practical experience rendered such changes necessary. The public in each city in which an office was located had to be made aware of its existence. Public misconception, and in some cases mistrust, regarding the reason for and the function of the offices, had to be overcome. Now, after nearly a year's work, the branch offices of the Bureau of Employment have each become an important factor in the industrial life of their community. Further, all the offices have a force of well-trained workers who are adequately fitted to carry on their important work.

At first the applicants for registration were mainly from the unskilled or semi-skilled class of workers. On the other hand, the offers of employment in the beginning came largely from employers who only offered poorly paying positions. Gradually this has changed. Employees of all grades came to know that they could secure employment through the Bureau, and the grade of registrations went up, until now each branch office has registrations

representing every trade and occupation, as well as many of the professions. Employers at the same time have come to learn that they can get any kind of an employee through the Bureau. In a great many instances large establishments depend on the different branch offices to furnish them with all their help, from the office force to common laborers.

This change has been brought about in several ways. In the first place, the offices have been operated as business propositions, as exchanges for the bringing together of the workers and those who have positions to offer. The vague misconception that public employment offices are in some way a charity has been dispelled by trying to deal justly by both employers and employees. Fitness for positions is the prime test in all dealings. If applicants are unemployable, because of old age, inefficiency, lack of training, or disability of any kind, it is recognized that to refer them to positions which they cannot hold is to wrong not only the employer but the worker as well. Another great help in bringing about this change has been the public press. Articles have been written for newspapers and all sorts of journals. These articles pointed out the true function of public employment offices and their possibilities. The daily newspapers of each city in which a branch office has been located have given the offices considerable space. Each superintendent has endeavored to bring his office to favorable notice through the local press, and almost without exception the newspapers have dealt fairly and favorably with the offices. Now and then mistakes in "write-ups" have occurred, but these were, as a rule, a reflection of the general misconception. The newspapers now realize that the public employment offices stand in the same relation to industry as does the public school to education, and they are giving the activities of the offices the same value as a source of news. The Director and each superintendent have frequently made addresses before various assemblies in a further endeavor to spread a knowledge of the Bureau.

The thing which has been of the greatest value to the offices is the bringing to the attention of employers the work of the Bureau through personal solicitation. The employees in all the branch offices are required to spend a part of their time in visiting the

various mills, factories and other work shops in their communities. This brings about two very valuable results — the attention of the employer is brought directly to the office and he is made to understand its worth to him. At the same time, the representative of the public employment office becomes acquainted with the kind of work carried on in his locality. This acquaintance with industry makes him better fitted to register applicants and properly to refer them. Through this direct contact with industry and the workers, there is gradually accumulating in all the different offices a mass of practical information concerning every trade and occupation. The employees in public employment offices are becoming thoroughly acquainted with the details and requirements as to the workers and the processes in all sorts of industries.

The law establishing the Bureau of Employment calls for separate departments for men, women and juveniles, with a special section in regard to the method in which juveniles shall be handled. Strict impartiality as between employer and employee is provided for, especially during the time of any labor disturbance. Each office is to have an advisory committee composed of an equal number of representatives from organized labor and representatives of employers' associations. The law also provides that the Bureau of Employment shall furnish information and statistics not only from the Bureau's own offices, but also information and statistics gathered from the private employment exchanges. A section of the law outlines a method of co-operation among the different offices established under the Bureau.

The different branch offices so far established are all, with one exception, located on the ground floor, in or near the business section of the city. The office in Syracuse is located on the second floor, with a stairway leading directly from the street to the office. Separate departments in all offices are established for men and women, with separate entrances either directly from the street or immediately after entering the building. There is a further sub-division in some of the offices between skilled and unskilled workers in the men's department and between domestics and all other workers in the women's department. Certain hours of the day are set apart for registration, and during these

hours the applicants are allowed to come, one at a time, to the different desks and are questioned as to their occupation and trade experience, and such other things as are necessary to their successful placement. Most of the orders from employers are received by telephone or mail, although some employers call directly at the office. This is especially true of farmers desiring farm help and of housekeepers desiring domestics. The different positions open are posted up on specially arranged bulletin boards and during certain of the morning hours the superintendent calls out the positions to the applicants assembled. Chairs are provided for some of the applicants in the male department and for all the applicants in the women's department. Only in rare cases are applicants referred to positions unless they have first made a personal visit to the office. The agents in the different branch offices depend often as much upon the appearance and bearing of applicants as they do upon their answers to the questions. Ability to fill the position offered is, of course, the first requirement. Rapidity with which the order is filled is also of prime importance. As a rule, an employer does not ask for a worker until he is actually needed. If a person capable of filling the position can be found upon the floor, he is at once sent out. If not, the registrations on file are examined for a likely worker. This can quickly be done as all registrations are filed under the different trades and occupations.

One of the most essential elements in any business is its system of bookkeeping and of records. The record card system of the Bureau of Employment of this state is in several particulars peculiar to itself, although it is made up from ideas taken from the different systems used throughout the United States and in Europe. The blanks and forms from all the states in the United States, as well as those from England and Germany, were procured and carefully gone over. What was thought to be the best from each was selected and brought together to form one system. After the copy for the different forms and blanks was made up, they were submitted to the filing and record card expert of one of the largest manufacturers of filing devices in the country. In addition, the criticisms of writers on the subject of unemployment were sought. The system thus installed has been modified

in a few minor points which practical experience has shown to be necessary, and it will be further modified from time to time, as the occasion demands.

Where labor troubles occur in a district covered by any branch office, the office remains, both under the law and in practice, strictly neutral. When no workers are requested for a shop, factory or work place in which there is a labor disturbance, the Bureau of Employment in no way comes in contact with the situation. An employer (or a representative of employers) or employees may file at a public employment office a signed statement with regard to the existence of a strike or lockout affecting their industry or trade. Such statement is exhibited in the employment office, but not before it has been communicated to the employers affected, if filed by employees, or to the employees affected, if filed by employers. In case of a reply being received to such signed statement, it is also exhibited in the employment office. When an employer affected by a statement notifies the public employment office that he desires workers the superintendent in charge of the office, or his subordinates, advises any applicants who desire to fill the positions offered of the statements that have been made. It is the practice of the offices to post the statements of both sides on the bulletin board of the office in such a way as to be easily read by all applicants.

Under section 66-f of the Bureau of Employment law, the State Industrial Commission is given the authority to appoint advisory committees for each branch office. These committees are to be made up of an equal number of representatives from employers and employees. The advisory committee appointed for the New York City branch office is made up of some of the leading labor men and leading employers of the state. There have been brought before it not only questions pertaining to the branch office in New York City, but questions affecting the different offices throughout the state, and it has, to a certain extent, acted, for the time being, as a state-wide committee. This committee has been of great service in helping to decide questions of policy for the Bureau, in aiding to give the Bureau wider publicity, and in encouraging those directly responsible for the work. The members of this committee at present are: W. D. Baldwin, President,

Otis Elevator Company; Ernest Bohm, Secretary, New York Central Federated Union; Thomas J. Carroll, President, Stereotypers' Union No. 1; Morris L. Ernst, of Greenbaum, Wolff & Ernst; Haley Fiske, Vice-President, Metropolitan Life Insurance Company; Charles Francis, President, Charles Francis Press; Mrs. E. C. Henderson; James P. Holland, President, State Federation of Labor; Walter B. Holt, General Organizer, International Longshoremen's Association; Henry C. Hunter, Secretary, National Metal Trades Association; J. J. Manning, General Organizer, United Garment Workers of America; W. H. Marshall, President, American Locomotive Company; Benjamin H. Namm, of A. I. Namm & Company; Otto Nicols, Secretary, Central Labor Union of Brooklyn, and Miss Melinda Scott, President, Women's Trade Union League. The names for the advisory committees of the other branch offices are now being selected.

Under section 66-p of the law establishing the Bureau of Employment, every employment office or agency other than those established by this Bureau, is required to keep a register of its orders for workers and of its applicants for work. This information is to be furnished to the State Industrial Commission at such times and in such form as may be required. For the purpose of carrying out this law, the Bureau of Employment secured from the mayors or commissioners of licenses of the different cities the names and addresses of the more than 800 private agencies in the state, over 600 of which are located in New York City alone. These names and addresses were furnished to the Bureau of Statistics and Information. A monthly report blank is sent out to every private agency, on which said agency is expected to fill in the information required. It was very difficult at first to make many of the private agencies understand just what was wanted. The majority of them are now sending in fairly well filled out reports.

Section 66-k of the Bureau of Employment law calls for the co-operation of the branch offices created under the Bureau, in order to facilitate the transfer of applicants for work from places of over supply to places where there is a demand. The administrative office of the Bureau is located at No. 230 Fifth avenue,

New York City, and this office acts as a clearing house and co-operative center. All the branch offices throughout the state are required to send in daily reports to the main office on a form specially prepared for that purpose. These reports are checked up and constant watch is kept to see that the different offices are filling the orders received, listing their orders correctly, registering the people properly, and in other respects keeping such check as will enable the main office to be in constant touch with the work of each branch. By this means accurate and intelligent transferral of labor from one section of the state to another is carried on. Already considerable shifting of farm hands, machinists and day laborers has been accomplished. In time it is hoped that the Bureau may become a central point of information where laborers in one seasonal industry which is about to end can learn of the opening up of other industries where their services will be required.

These daily reports also enable the Director to watch the progress of the branch offices and to assist and stimulate the superintendents in carrying on the work. In connection with this part of the administrative work, the Director visits all the branch offices every month, spending in each one the time found necessary to ascertain how the details of the work are being performed. As each one of these offices works under the same system of records, and, to a large extent, uses the same methods, their information and statistics regarding the labor market are of much greater value than if each office were working as a separate unit.

The administrative office issues, on the first of every month, a bulletin showing the work of the branch offices for the preceding month. This bulletin gives in short paragraphs some of the information about the labor market collected through the branch offices, and also gives in table form the statistics of the work done during the month. These tables show the number of registrations, the number of positions offered, the number referred to positions, and the number reported placed, by occupational groups, for the different branch offices. This bulletin is multigraphed and copies are sent out to the various newspapers in the state, and are also mailed to such persons as are vitally interested in employment office work, both in this and other states. By thus issuing

figures every month for all the branch offices, the most efficient office becomes the standard for the time being. Each superintendent knows what the other is doing, and can by this means judge what his office should do in proportion to the size of the city in which the office is located.

Every industrial center in the state should have a public employment office, and in some of the larger communities the time will come when it may be necessary to locate several branch offices in the same city. While, of course, a municipal office run by the city itself can be of considerable value to its own community, its value and efficiency is vastly increased when it has direct connection with every other office of its kind in the state, and comes under the same general supervision. The present branch offices are undoubtedly each doing good work in their own district, but the number of public employment offices is pathetically small compared to the field which they should cover. In New York City alone there are between 600 and 700 private employment agencies, and it is estimated that they collect yearly from the workers patronizing them, over \$2,000,000. In contrast to this large number of private employment agencies, the state has one branch office in the Greater City and four throughout the state. The State of Ohio now has seven offices and the present Legislature will be asked to open offices in all cities having a population of 25,000 or more.

The Conference of Mayors and Other City Officials of the State of New York appointed a special Committee on Unemployment. This committee held a hearing in Albany on November 18th, 1915. At this hearing the Director of the State Bureau of Employment was asked to give his views to the committee. It was suggested to the committee that where a city desired the establishment of a public employment office, it should make a proposition to the State Industrial Commission that in consideration of the state's establishing a branch office in the city, it would agree to furnish the "plant"—meaning thereby the rental, light, heat, telephone and janitor service. This sort of co-operation is now very successfully carried on in the cities of Milwaukee and Cleveland. It is desirable from several standpoints that each city should have a direct financial interest in the state public employ-

ment bureau established within its limits. The paying for even a small part of the office's up-keep will cause the city to feel a proprietary interest in it, which will lead to a more careful noting of the workings of the office and to its more extended use and up-building. The interests of the city could be protected through its having one or more representatives on the local advisory committee. With the city financially co-operating with the state, and with a local advisory committee to look after the proper running of the office, together with the general supervision of a state director, there should be produced an efficient system of public employment offices.

The result of this suggestion to the Committee on Unemployment has been that several cities in the state have made tentative offers of office room, etc., while others have written to ask for further information concerning the plan and just what steps should be taken to secure the advantage of it.

We are not giving figures concerning the amount of work done by the various branch offices in this part of the report. These figures are given in full in the statistical tables filed as a sub-report. One of the things to be noted in connection with these figures is that they do not represent a mass of emergency placements, but show work done in the regular course of normal industry. Nor is there an attempt to make a great showing by padding the figures with a large number of day workers and those doing casual jobs. Rather, these figures show that the Bureau is endeavoring to build up a string of branch offices on a firm basis, so that they will in time become a series of bureaus of information which will have something to offer and which will be of benefit to every kind and grade of worker.

In the table showing the number of placements it is to be kept in mind that these are actual placements. No one is reported as having been placed in employment unless a report to that effect has been secured from the employer or the employee. All applicants at the time they are referred are given a postal card. This is to be signed by the employer and mailed back to the office. In case there is no return of the card, the employer is called by telephone or is written to in regard to the applicant. As many of the cards never come back, and as some employers cannot be

reached by telephone or fail in some way to give the office the information asked for, there is necessarily always a smaller "Number Reported Placed" than the number who actually find work through the employment office. The true number of those placed is to be found somewhere between the "Number Reported Placed" and the "Number Referred to Positions," as shown in the tables. But for every person reported placed, the branch offices have either the return postal or a card signed by the clerk who received the information over the telephone or otherwise.

Back of these statistical tables which give in cold, dry detail the results of the daily work of the branch offices, is a mass of work performed which cannot be shown by statistics. These tables cannot show the hundreds, and even thousands, of cases where advice was given to workers, both old and young, which led them to take up work better fitted to their temperament and abilities. They cannot show the many hours' time and the many useless miles of traveling saved through the applicants coming to one central point of information. They do not show the patient work of getting a backward man or woman into a satisfactory job from which they would have shrunk had they not had proper direction and urging. The tables do not disclose the great number of young people who received advice from the trained workers in the different branch offices as to what trade or occupation they should take up.

The law regarding the organization of the branch offices into different departments is permissive. Taking advantage of this, no separate departments for juveniles were established at the opening of the branch offices. There were two important reasons for this. In the first place, immediately upon the opening of the offices, there was such a pressure of applicants that it was all the offices could do to handle the adults. Another reason for not at once opening special juvenile departments was that there were no specially trained workers for the delicate task of handling young people. It was hoped that the workers in these bureaus would become so well acquainted with industry and so well acquainted with the requirements of workers, that they would come to have a comprehensive knowledge of all the demands of the many industries and the various grades of workers. This

sort of knowledge could only come through the actual placing of men and women in various trades and occupations. It was felt that until this training was acquired, it would be wise to defer the opening of juvenile placement departments. We believe the corps of workers in the Bureau of Employment, after their many months of experience, are now ready for this particular and much needed branch of the work. The juvenile placement departments should now be established in every branch office as rapidly as possible.

Already the offices are doing, along with their regular work, a great deal of what might be called vocational direction. Special effort is made to direct young people into the kind of work for which they are best fitted. Too often the young man or young woman starting in to work takes the first job available, without much regard whether they are fitted for it either by education, experience or temperament. This results in two dissatisfied persons — the employer grumbles because of poor work, and the young man or young woman chafing under the inability to properly do the work, and resentful because of the complaints, is rendered still more inefficient. The employees of the Bureau of Employment, having a thorough knowledge of all their local industries, are in a much better position than any other agency to point out to young people the work which they are best fitted to do. Nor does this ability to give competent direction confine itself to the young. Many people who have reached middle age are shown that they can do better work and earn more in vocations which they knew little or nothing about before visiting the Bureau.

There is, however, a great need for the starting of special departments for the handling of children who are leaving school to enter industry. Under our present system, the state spends thousands of dollars in educating the children of the different communities. After receiving this education, they are turned out of the schools at any time from the 14th to the 20th year, and allowed to hunt their vocation in life with very little well-defined or intelligent direction. The child may turn to its parent, who often has very limited knowledge as to the industries of his community or the country at large. If the child turns to its teacher, it finds but little more help here, and so, in a haphazard

fashion, it secures a "job." The state should establish in every community a central point to which the child could turn to learn all about industries, all about opportunities in staple trades and new lines of business, to know which were decaying trades, which were "blind-alley" trades, and what vocation was best fitted to its education and temperament. The agitation for industrial and vocational education should be followed by provision for connecting those who have been thus trained with the opportunities for employment.

To help emphasize the parallel between the public school and the public employment office, it has been the endeavor of this Bureau to eliminate the word "free" in reference to public employment offices, just as the word "free" has been eliminated as a designation of public schools. It is true the services of the public employment offices are "free"; so also are the services of the public school. To continue the use of the word free in referring to the public employment offices gives them the taint of charity, and we thus drive away capable workers who resent the implication of being patronized. No parent, however well-to-do, thinks of charity when he sends his child to the public school. But he will not patronize a "free" public employment bureau, except as a last resort.

The Bureau of Employment is constantly finding new avenues for usefulness. Some of the branch offices have been handling school teachers. In all of the offices there is endeavor made to induce farmers to keep good farm hands the year round. To aid in this, the office endeavors to select the very best possible man so that the farmer may have an incentive to keep him. While the offices in no way enter into the wage question in any trade or occupation, leaving that to be settled between the employer and employee, yet in nearly all cases orders received contain the information of wages offered. In this way the offices know something about the prevailing rate of wage in lines of work not controlled by wage agreements. The branch offices in themselves are very interesting places. During the hours when applicants are registered and referred, the offices are, as a rule, crowded with workers. Often the place becomes a regular labor market, and employers can be seen in various corners arranging terms of

employment with the different applicants. This is especially true of farm hands in the men's department and domestics in the women's department.

If the offices did no more than directly connect the work and the worker, they would justify their existence. There is probably no other thing so depressing to a man as the weary hunt for a job — the being turned away day after day from factory gates, work shops and offices. After a few weeks of this sort of thing, men who, under ordinary circumstances, would be good and steady workmen, gradually get into such a depressed state that at last when work is found they have become unfitted to do it. There should be a wider realization of the many ways in which a man seeking work to-day finds it. His most common way is to apply at the actual place of the work. This means tramping the streets of the city or riding to many parts of the community where work is going on. Or he may answer an ad in the newspaper and find himself in line with many hundreds of other applicants. Or he may insert an ad in some newspaper and go the weary round in answer to the replies. If he is a union man, he can apply to the headquarters or to the business agent of his union. If he is a non-union man, or is not opposed to working in an open shop, he may apply to the employment bureau of an employers' association. If he has a family to support and has reached the point of asking charity, he may be referred to the employment office of some charitable association. If he has a little money, he can go to a private employment agency. Here he may be charged a registration fee, and if, after some delay, he is finally placed in a position, he will be made to pay anywhere from five to twenty per cent of his first month's wages.

So many varied ways cause a scattering of energies and a loss of time and money, not only to the employer and employee, but to society as a whole. The method is as primitive as the ox-team, and the inefficiency and waste are very great.

The private employment agencies are of little or no real help in this situation. The report of the Industrial Commission of Wisconsin states this so clearly that we quote it here in full:

The service of connecting employers and working people is something which private agencies cannot do as efficiently as the state. In the first place the

gathering of information about opportunities for employment and distribution of this information to those in need of it requires a centralized organization which will gather all the demand for labor and which will be in touch with the entire available supply. To have many private labor agents attempting to give this service defeats the very purpose of a clearing house where employer and worker may meet; for demand for help is often registered with one employment agent while the applicants for employment are registering at other offices. A unified system of employment offices is needed to secure the best distribution of labor.

It must be remembered in this connection that it is impossible for wage-earners themselves to discover the opportunities for employment for which they are best fitted. They cannot call at every factory in a large city, and they cannot know what distant farmer or construction company needs their services, or where railroads and lumber companies are maintaining camps. In any case, some agent must make a specialty of gathering information about opportunities for employment and rounding up the available supply of labor. The worker has but the alternative of calling upon the private agent and paying for his information or having the state supply the information free of charge.

The fee which private labor agents must charge for their services also precludes them from becoming efficient distributors of the labor force of the state. At the very time when labor is most oversupplied, when there are many unemployed and it is important that they go to work at once, then the private agents charge the highest fees, thus interposing a barrier to the proper flow of labor into the channels where it is needed. Moreover, there is ever the temptation to the agent to fill his positions from among people who are already employed, thus enabling him to create new vacancies and to earn more fees. This practice is universal among private labor agents.

There are many immediate and pressing problems in the different branch offices of the Bureau calling for solution. For instance, what is the best system of filing registration cards of applicants so that when an order is received it will be possible to quickly select the proper man from the list of those registered? Shall there be certain hours for registering and certain hours for referring applicants, or shall workers be allowed to come in at any time and make application? Shall employers be allowed to telephone in orders during all hours of the day and expect instant service, or shall there be definite periods for sending out workers? How can the floor plan of an office be so arranged that applicants in registering shall not crowd upon one another, and how shall privacy be secured to the man answering questions concerning himself? As it is now, it is very difficult to prevent four or five other workers from hearing all the answers an applicant gives.

How many and what questions shall be asked of an applicant so as not to obtrude into his private life, and yet at the same time obtain all the information necessary in properly fitting him into some one of the positions offered? How often shall an applicant be required to renew his application, and how long shall his original registration be allowed to stand as an active registration? This last question is one of the most vexing, and none of the employment offices in this country are able to offer a solution. Not even the Federal Government has attempted as yet to work out a uniform and comprehensive system of renewals, although both for the administrative work of the office as well as for statistical purposes, the question demands a solution. What length of time shall a man placed in a position work before he is said to have a permanent position? What shall be called permanent positions and what temporary positions, and what sort of jobs shall be classed as casual? How shall classifications be made of trades and occupations under the many and varied industries carried on in this country, so that the records of each office will be comparable? At the present time our daily report sheet lists 21 industries, with sub-divisions of 137 trades and occupations. Until some of these questions are settled, there can be no compiling of uniform statistics for the country as a whole.

Shall the local offices throughout the state be allowed to fill orders from other states, and shall applicants be allowed to register when they are already holding a position?

All the branch offices are at present working in close co-operation with the various labor organizations of their communities, but some scheme of even closer co-operation must be worked out for the benefit of the workers and the community.

It has been the general conception of private charitable associations and other like organizations, that the Bureau of Employment should make a special effort to place ex-prisoners and also the large class of near-unemployable men generally dealt with by private charity. It has often been a difficult task to make clear that the Bureau of Employment is a business proposition just commencing to establish its business standing in the different communities where located. The handling of ex-prisoners and the near-unemployable has to be carried on in an entirely different

manner from the method used in placing capable and regular workers. It is a special work in itself, and requires the most intensive treatment, and properly belongs to organizations incorporated and endowed for the purpose of aiding prisoners and for the dispensing of charity. For the present the Bureau of Employment can be of help in a great many cases, but cannot devote the time of its limited force to taking up the matter in a special and intensive way. We are, however, placing many of the handicapped and are enabled to do so because we have built up a feeling of confidence among employers to whom we have been furnishing capable workers. An employer of this kind will often take a less efficient applicant when all the particulars of the case are given such employer by the Bureau. It is hoped that the time will come when the Bureau of Employment will be large enough so that it may have a special department in each large branch for handling these classes of labor.

The Bureau, especially in New York City, has been of considerable assistance to the Bureau of Workmen's Compensation in placing a number of partially disabled workmen whose claims are pending in the Compensation Bureau. Where it was believed by the Compensation Bureau that a man was capable of doing light work, the Bureau of Employment has endeavored to find such work for him. Also, the employment offices have placed a number of more or less handicapped workmen who have been sent to the Employment Bureau by the Bureau of Compensation.

It can now be safely predicted that there will be far less unemployment the coming year than there has been for the past two or three years. Because of this, it will not do to be lulled into the belief that there is less need for public employment bureaus, and that expansion of the system is not necessary. Rather, there is necessity for the establishment of more bureaus in every industrial center, for the reason that unemployment is always with us — the amount only varying with the general condition of industry throughout the country. Now is the time to prepare a body of trained employment office workers to deal with the problem which is sure to follow the end of the European war. All sorts of predictions are made as to the effect the ending of the war will have on this country. Whatever that effect may be, the

need for public employment offices to deal with the situation will be very great. Whatever plans may be devised for helping in an acute situation, if one develops, whatever methods are planned for the elimination of chronic unemployment — in either case, the work will have to be carried on through the public employment offices, and better work can be done through them than through any other agency. It would be more than foolish to be again placed in the condition in which this country found itself when the acute unemployment situation of last year arose. The organization of the public employment offices should be so developed that the Bureau of Employment would be ready to take up the work which was then turned over to hastily appointed committees. It is time we laid a foundation for dealing with the question through a regularly organized agency which is at work continuously on the problem.

The experience which the Bureau of Employment has gained up to this time shows that the need of a bureau is greater in prosperous times than in hard times. When times are poor not many jobs go a-begging, as some worker will soon find the vacant job, but in prosperous times when workers are not so plentiful, it is more difficult for the employer to locate the available workers. We must, moreover, recognize the fact that people are constantly changing their positions. In the best of times changes are going on, from the office girl to the office manager. Many trades are seasonal, old workers are leaving industry, new recruits are coming in. Machine processes replace hand processes, new industries spring up, others move away. For all these reasons workers are constantly being hired and shifted. A bureau of employment has an important function in helping to shift the workers during these changes.

We believe that the work of the Bureau of Employment has already proven the value of a state-wide system with a central clearing house. There are many other cities and towns in the state where it would be advantageous to establish offices. The requests from some of these cities that the Bureau of Employment establish a branch in their locality has in several instances been very pressing. During the coming year there should be not less than seven new offices established. There should be two more

offices in Greater New York, one in Binghamton, one in Utica, one in Watertown, one in Jamestown and one in Newburgh. These cities are tentatively suggested on account of their location and commercial importance and also for the reason that some of them have been holding out inducements to the State Industrial Commission to locate in their district. There are other cities discussing the question which will probably make satisfactory proposals to the Industrial Commission.

The question of whether or not the state and nation shall establish a system of public employment offices has been passed upon. It is now only a question of working out the details — of how they shall be run in the most efficient manner and in what way to produce the greatest benefit. New York is the leading industrial state in the union, far outstripping any other. In all matters of legislation or the working out of plans for the most efficient development of industry, other states look to New York to take the lead. The result of this is that all those states which have lately adopted a public employment office system, as well as those which are now contemplating it, are looking to this state to learn what we are doing with our public employment office system. In the states where the development has been retarded, it has been because the public has not yet begun to realize the value of the offices — the appropriations have been low, and cheap and inefficient people hired to do the work. It is only through trained and well-paid workers that these offices can be made a success. In the states of Massachusetts, Ohio and Wisconsin, public employment offices have been appreciated — appropriations have been sufficient to establish good working plants and to hire trained and practical people. The result is that the number of offices in these states is increasing, the work is a success and the salaries are high enough to attract capable people who are protected by Civil Service.

In addition to establishing the new branch offices just mentioned, there should also be established a number of sub-stations in thickly settled farming communities for the purpose of handling farm help. There are in the State of New York farm bureaus maintained in 31 of the counties. These bureaus are for the purpose of carrying on educational work among the farmers.

Experiments with different fertilizers and different kinds of seeds are made, and in various ways the farm bureau endeavors to assist in the agricultural development of the state. The trained men who carry on the work for the bureaus are constantly solicited by farmers to secure them farm help. As their time is taken up with other work, it is only practical for them to do a limited amount in the employment field. The need, however, for some definite agency to handle the matter has been felt very strongly in many sections of the state, and already several requests have been made of the Bureau of Employment that it furnish trained men to assist in the employment work.

When the first budget for the Bureau of Employment was prepared, no provision was made for salaries for assistant superintendents. The result of this was that a number of capable men and women had to be induced to enter the service of the Bureau of employment at very low allowance. Without exception, these people have done good work and proven themselves well fitted for the positions. To hold these people in this work and to show proper appreciation of their services, there should be some increase in the salaries of not less than 11 of these employees.

We have already in this report shown the need for the establishment of juvenile placement departments in all the branch offices.

The following table shows the expenditures of the office up to the 1st day of October, 1915:

APPROPRIATIONS		
Supply bill (1914)	\$13,191 66	
Appropriation bill (1914-15)	49,440 00	
		<hr/> \$62,631 66
EXPENDITURES		
Salaries	\$27,778 50	
Furniture and equipment for six offices	5,019 18	
Rentals	5,162 00	
Advertising, printing, traveling expenses, expressage and stationery ..	3,693 55	
		<hr/> 41,653 23
		<hr/> \$20,978 43
		<hr/>

The amount of \$5,766.66 appropriated for salaries in the supply bill lapsed on the 1st day of October, 1914. This deducted from the gross unexpended balance of \$20,978.43, leaves a net unexpended balance of \$15,211.77, which was re-appropriated and

became part of the amount appropriated for the general use of the State Industrial Commission.

In closing this report we wish to acknowledge our obligation to many volunteer workers who have rendered efficient service in the different branch offices. Many officers of trade organizations, business men, university professors, social workers and others have given the Bureau valuable assistance — some in the capacity of advisors, others in doing the actual work of the office, and still others in helping to bring the Bureau to public attention. The list is far too long to give individual mention.

I desire also in this connection to give sincere appreciation to the superintendents and the corps of workers in the various branch offices for the efficient service they have rendered — for the long hours they have spent and for their willingness and devotion to the work.

CHARLES B. BARNES,
Director, Bureau of Employment.

Table I. LABOR DEMAND AND LABOR SUPPLY ACCORDING TO NUMBER OF REGISTRATIONS AND NUMBER OF POSITIONS OFFERED

	LABOR DEMAND (Help wanted)		LABOR SUPPLY (Situations wanted)										Referred	Positions reported filled
	Number of employers request- ing help	Number of persons applied for	Total number of regis- trations	Native born	FOREIGN BORN			Single	Mar- ried	Wid- owed	Renew- wals			
					Total	Citi- zens	Aliens							
Brooklyn..... (Opened 1-4-15)	.....	3,266	14,317	9,388	4,929	2,028	2,901	8,196	5,704	417	3,998	4,567	2,007
	.....	2,966	4,455	2,992	1,463	772	691	2,698	797	960	1,433	4,091	1,700
	3,548	6,232	18,772	12,380	6,392	2,800	3,592	10,894	6,501	1,377	5,431	8,658	3,707	
Syracuse..... (Opened 1-25-15)	.....	3,283	6,017	4,522	1,495	561	934	3,353	2,466	198	304	3,713	2,074
	.....	2,284	2,480	2,015	465	244	221	1,327	751	402	313	2,385	1,228
	3,982	5,567	8,497	6,537	1,960	805	1,155	4,680	3,217	600	617	6,098	3,302	
Rochester..... (Opened 2-4-15)	.....	3,800	6,563	3,911	2,652	792	1,860	3,592	2,756	215	430	3,654	2,126
	.....	2,138	2,053	1,482	571	250	321	1,133	508	412	288	2,217	867
	3,789	5,938	8,616	5,393	3,223	1,042	2,181	4,725	3,264	627	718	5,871	2,993	
Buffalo..... (Opened 2-8-15)	.....	2,398	7,989	4,706	3,283	1,305	1,978	4,487	3,277	225	866	2,638	1,582
	.....	1,231	2,044	1,325	719	406	313	1,076	531	437	276	1,331	769
	2,463	3,629	10,033	6,031	4,002	1,711	2,291	5,563	3,808	662	1,142	3,969	2,351	
Albany..... (Opened 4-22-15)	.....	951	2,807	2,020	787	300	487	1,818	895	94	380	1,291	692
	.....	539	829	627	202	106	96	459	180	190	153	754	346
	1,049	1,490	3,636	2,647	989	406	583	2,277	1,075	284	533	2,045	1,038	
Grand total.....	.....	13,698	37,693	24,547	13,146	4,996	8,160	21,446	15,098	1,149	5,978	15,863	8,481
	.....	9,158	11,861	8,441	3,420	1,778	1,642	6,693	2,767	2,401	2,463	10,778	4,910
	14,831	22,856	49,554	32,988	16,566	6,704	9,802	28,139	17,865	3,550	8,441	26,641	13,391	

NOTES TO TABLE II

For Table II we have arranged twenty-six occupational groups under males and eight occupational groups under females. A large number of widely separated trades and occupations had to be brought under the heading "Occupations not otherwise classified" because there was such a small number in each. These occupational groups embrace the following trades and occupations:

Males

Agricultural Workers.....	Farm hands, fruit and berry pickers, gardeners, foresters, etc.
Bakers and Butchers.....	Bakers, butchers and helpers.
Blacksmiths, etc.....	Blacksmiths and helpers.
Boilermakers, etc.....	Boilermakers and helpers.
Bricklayers, etc.....	Bricklayers, masons, plasterers, helpers, concrete workers, marble and stone cutters, brick, tile and terra cotta workers.
Carpenters, etc.....	Carpenters, joiners, helpers, furniture workers, cabinet makers, finishers, machine wood workers, piano and organ workers, upholsterers and all other wood working trades.
Chauffeurs, etc.....	Chauffeurs, cab and coach drivers, draymen, teamsters, hostlers, stable hands, etc.
Clerical Workers, etc.....	Bookkeepers, accountants, cashiers, stenographers, typists, and office clerks.
Coremakers, etc.....	Coremakers, molders and helpers.
Electrical Workers.....	Electrical workers, linemen and electricians.
Engineers, etc.....	Marine engineers and firemen, railroad engineers, firemen, conductors and trainmen, stationary engineers and firemen and watchmen.
Factory Workers.....	Drug and chemical workers, paint, oil and soap makers, glass workers, tailors, garment workers, hat and cap makers, laundry, cleaning and dyeing workers, millinery workers, shirt, collar and cuff makers, all other clothing, millinery and furnishings workers, cannery workers, cigar and tobacco workers, confectionery workers, all other food, beverage and tobacco workers, boot and shoe makers, fur workers, glove workers, harness makers, rubber workers, tannery workers, all other leather, rubber and allied products workers, paper goods workers, pulp and paper mill workers, all other paper and paper goods workers, spinners, winders, weavers and all other textile workers, juveniles and learners.
General Laborers.....	Building and construction laborers, chemical, oil and paint laborers, clay, glass and stone products laborers, clothing, millinery and furnishings laborers, food, beverage and tobacco laborers, leather, rubber and allied products laborers, metals and machinery laborers, paper and paper goods laborers, textile laborers, freight handlers, railroad section hands, transportation laborers, coal, lumber yard, etc., laborers, wood working laborers, day workers, dock workers, snow shovelers, ice cutters, all other casual workers and miscellaneous laborers.
Hotel Workers, etc.....	Bartenders, cooks, chefs, counter-men, kitchen workers, waiters, busboys, all other hotel, restaurant and institution workers, barbers, domestics, nurses and attendants and all other personal service workers.
Janitors, etc.....	Janitors, caretakers and handymen.
Machinists.....	Machinists.

Machine Hands.....	Auto repairers, garage workers, bench hands, assemblers, machine hands and helpers.
Messengers, etc.....	Messengers, errand boys and deliverymen.
Painters, etc.....	Painters, decorators, paper hangers, varnishers and helpers.
Plumbers, etc.....	Plumbers, gas and steam fitters and helpers.
Polishers, etc.....	Polishers, buffers, platers and helpers.
Porters.....	Saloon porters, store porters and miscellaneous porters.
Printers, etc.....	Bookbinders, machine operators, composing room employees, job printers, pressmen, feeders and all other printing and publishing workers.
Salesmen, etc.....	Agents, canvassers, collectors, bundlers, wrappers, clerks, salesmen, shipping and stock clerks, packers, window trimmers and all other wholesale and retail trade workers.
Tinsmiths, etc.....	Roofers, tinsmiths, sheet metal workers and helpers.
Occupations Not Otherwise Classified.	Structural iron workers, workers in the building and construction trades not otherwise classified, chemical workers not otherwise classified, clay, glass and stone products workers not otherwise classified, draftsmen, mechanical and civil engineers and clerical and professional occupations not otherwise classified, brewery workers, blast furnace workers, occupations in the metal and machinery trades not otherwise classified, mining and quarry workers, railroad switchmen, flagmen, yardmen, street railway conductors and motormen, telephone and telegraph operators, occupations in the transportation and public utilities trades not otherwise classified, elevator runners, moving picture operators, piano players, detectives, and miscellaneous workers not otherwise classified.

Females

Clerical Workers, etc.....	Bookkeepers, accountants, cashiers, stenographers, typists and office clerks.
Day Workers.....	Day workers.
Domestics, etc.....	Domestics, laundresses, nurses, attendants, manicurists, janitresses and all other domestic and personal service help.
Factory Workers.....	Drug and chemical workers, paint, oil and soap makers, clay, glass and stone products workers, dressmakers, seamstresses, tailoresses, garment workers, hat and cap makers, laundry, cleaning and dyeing workers, millinery workers, shirt, collar and cuff makers, all other occupations in the clothing, millinery and furnishings trades, cannery workers, cigar, cigarette and tobacco workers, confectionery workers, all other occupations in the food, beverage and tobacco trades, boot and shoe makers, fur workers, glove workers, rubber workers, all other occupations in the leather, rubber and allied products trades, all occupations in the metals and machinery trades, paper goods workers, pulp and paper mill workers, all other occupations in the paper and paper goods trades, spinners, winders, weavers and all other workers in the textile trades, upholsterers and all other workers in the wood working and furniture trades, juveniles and learners.
Hotel Workers, etc.....	Chambermaids, cooks, kitchen workers, matrons, housekeepers, waitresses and all other hotel, restaurant and institution workers.

- Printers, etc.....** Bookbinders, machine operators, job printers, composing room employees, proof readers, press feeders and all other occupations in the printing and publishing trades.
- Saleswomen, etc.....** Agents, canvassers, collectors, bundlers, wrappers, cash girls, clerks, saleswomen, shipping and stock clerks, packers, models and all other occupations in the whole-sale and retail trades.
- Occupations not otherwise classified...** Farm help, bakers, school teachers, clerical and professional occupations not otherwise classified, telephone and telegraph operators, elevator runners, piano players and miscellaneous workers not otherwise classified.

Table II.—NUMBER OF REGISTRATIONS, POSITIONS OFFERED, PERSONS REFERRED AND PERSONS REPORTED PLACED BY OCCUPATIONS.

OCCUPATIONS	REGISTRATIONS		POSITIONS OFFERED		NUMBER REFERRED		REPORTED PLACED	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
All Offices: Males								
Agricultural workers.....	3,257	8.6	2,564	18.7	2,724	17.2	1,794	21.1
Bakers and butchers.....	290	0.8	86	0.6	52	0.3	15	0.2
Blacksmiths, etc.....	306	0.8	41	0.3	56	0.4	21	0.2
Boilermakers, etc.....	102	0.3	9	0.1	6	*0.0	4	*0.0
Bricklayers, etc.....	377	1.0	88	0.6	101	0.6	46	0.5
Carpenters, etc.....	2,053	5.4	676	4.9	766	4.8	395	4.7
Chauffeurs, etc.....	2,197	5.8	232	1.7	309	1.9	139	1.6
Clerical workers, etc.....	3,002	8.0	233	1.7	331	2.1	114	1.3
Coremakers, etc.....	353	0.9	48	0.4	71	0.4	26	0.3
Electrical workers.....	634	1.7	73	0.5	94	0.6	52	0.6
Engineers, etc.....	1,392	3.7	96	0.7	156	1.0	59	0.7
Factory workers.....	2,266	6.0	426	3.1	536	3.4	229	2.7
General laborers.....	4,836	12.8	3,572	26.1	3,736	23.6	2,363	27.9
Hotel workers, etc.....	1,818	4.8	742	5.4	938	5.9	480	5.7
Janitors, etc.....	804	2.1	490	3.6	553	3.5	395	4.7
Machinists.....	1,834	4.9	1,089	8.0	1,273	8.0	510	6.0
Machine hands.....	2,453	6.5	568	4.1	765	4.8	337	4.0
Messengers, etc.....	849	2.2	251	1.8	315	2.0	148	1.7
Painters, etc.....	857	2.3	247	1.8	278	1.8	155	1.8
Plumbers, etc.....	759	2.0	70	0.5	108	0.7	48	0.6
Polishers, etc.....	250	0.7	38	0.3	44	0.3	17	0.2
Porters.....	853	2.3	356	2.6	443	2.8	242	2.9
Printers, etc.....	635	1.7	98	0.7	116	0.7	48	0.6
Salesmen, etc.....	2,853	7.6	792	5.8	1,041	6.6	380	4.5
Tinsmiths, etc.....	364	1.0	62	0.5	69	0.4	31	0.4
Occupations not otherwise classi- fied.....	2,299	6.1	751	5.5	982	6.2	433	5.1
Totals.....	37,693	100.0	13,698	100.0	15,863	100.0	8,481	100.0
All Offices: Females								
Clerical workers, etc.....	1,853	15.6	353	3.9	647	6.0	183	3.7
Day workers.....	352	3.0	390	4.3	402	3.7	334	6.8
Domestics, etc.....	4,968	41.9	4,650	50.8	5,335	49.5	2,494	50.8
Factory workers.....	1,928	16.2	1,637	17.9	1,925	17.9	790	16.1
Hotel workers, etc.....	1,780	15.0	1,515	16.5	1,811	16.8	849	17.3
Printers, etc.....	90	0.7	85	0.9	131	1.2	42	0.8
Saleswomen, etc.....	428	3.6	380	4.1	398	3.7	170	3.5
Occupations not otherwise classi- fied.....	462	3.9	148	1.6	129	1.2	48	1.0
Totals.....	11,861	100.0	9,158	100.0	10,778	100.0	4,910	100.0

* Less than 0.1 per cent.

Table II.—NUMBER OF REGISTRATIONS, POSITIONS OFFERED, PERSONS REFERRED AND PERSONS REPORTED PLACED BY OCCUPATIONS—(Continued)

OCCUPATIONS	REGISTRATIONS		POSITIONS OFFERED		NUMBER REFERRED		REPORTED PLACED	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
<i>Brooklyn Office: Males</i>								
Agricultural workers.....	341	2.4	58	1.8	78	1.7	39	1.9
Bakers and butchers.....	57	0.4	7	0.2	7	0.2	2	0.1
Blacksmiths, etc.....	78	0.5	13	0.4	14	0.3	5	0.3
Boilermakers, etc.....	34	0.2	2	0.1	1	*0.0	.....	.....
Bricklayers, etc.....	145	1.0	20	0.6	20	0.4	13	0.7
Carpenters, etc.....	642	4.5	172	5.3	231	4.8	108	5.4
Chauffeurs, etc.....	1,002	7.0	34	1.0	48	1.1	17	0.9
Clerical workers, etc.....	1,424	9.9	78	2.4	101	2.2	41	2.0
Coermakers, etc.....	55	0.4	12	0.4	17	0.4	1	0.1
Electrical workers.....	298	2.1	53	1.6	73	1.6	42	2.1
Engineers, etc.....	569	4.0	42	1.3	69	1.5	27	1.3
Factory workers.....	1,004	7.0	118	3.6	135	3.0	54	2.7
General laborers.....	1,378	9.6	731	22.4	1,096	24.0	490	24.4
Hotel workers, etc.....	563	3.9	213	6.5	267	5.8	145	7.2
Janitors, etc.....	340	2.4	86	2.6	128	2.8	67	3.3
Machinists.....	796	5.6	378	11.6	537	11.8	202	10.1
Machine hands.....	737	5.2	151	4.7	224	4.9	90	4.5
Messengers, etc.....	479	3.3	95	2.9	128	2.8	61	3.0
Painters, etc.....	285	2.0	50	1.5	57	1.2	33	1.6
Plumbers, etc.....	410	2.9	37	1.1	67	1.5	30	1.5
Polishers, etc.....	100	0.7	9	0.3	16	0.4	4	0.2
Porters.....	490	3.4	143	4.4	169	3.7	88	4.4
Printers, etc.....	395	2.8	52	1.6	66	1.4	35	1.7
Salesmen, etc.....	1,521	10.6	357	10.9	531	11.6	191	9.5
Tinsmiths, etc.....	157	1.1	9	0.3	8	0.2	7	0.4
Occupations not otherwise classi- fied.....	1,018	7.1	342	10.5	490	10.7	215	10.7
Totals.....	14,317	100.0	3,266	100.0	4,561			
<i>Brooklyn Office: Females</i>								
Clerical workers, etc.....	918	20.6	151	5.2	331	8.1	78	4.6
Day workers.....	182	4.1	164	5.5	173	4.2	158	9.3
Domestics, etc.....	1,603	36.0	1,074	36.2	1,477	36.1	592	34.8
Factory workers.....	1,032	23.1	980	33.0	1,285	31.4	486	28.6
Hotel workers, etc.....	351	7.9	381	12.9	541	13.2	269	15.8
Printers, etc.....	49	1.1	41	1.4	78	1.9	29	1.7
Saleswomen.....	168	3.8	140	4.7	175	4.3	75	4.4
Occupations not otherwise classi- fied.....	152	3.4	32	1.1	30	0.8	13	0.8
Totals.....	4,453	100.0	2,966	100.0	4,091	100.0	1,700	100.0

* Less than 0.1 per cent.

Table II.—NUMBER OF REGISTRATIONS, POSITIONS OFFERED, PERSONS REFERRED AND PERSONS REPORTED PLACED BY OCCUPATIONS—(Continued)

OCCUPATIONS	REGISTRATIONS		POSITIONS OFFERED		NUMBER REFERRED		REPORTED PLACED	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
<i>Syracuse Office: Males</i>								
Agricultural workers.....	905	15.0	790	24.1	845	22.8	529	25.5
Bakers and butchers.....	47	0.8	8	0.2	13	0.4	3	0.1
Blacksmiths, etc.....	58	1.0	13	0.4	23	0.6	9	0.4
Boilermakers, etc.....	19	0.3	3	0.1	3	0.1	2	0.1
Bricklayers, etc.....	53	0.9	31	0.9	33	0.9	15	0.7
Carpenters, etc.....	377	6.3	159	4.8	204	5.5	103	5.0
Chauffeurs, etc.....	270	4.5	64	1.9	84	2.3	39	1.9
Clerical workers, etc.....	416	6.9	37	1.1	60	1.6	17	0.8
Coermakers, etc.....	82	1.4	15	0.5	27	0.7	10	0.5
Electrical workers.....	79	1.3	3	0.1	5	0.1	2	0.1
Engineers, etc.....	225	3.7	13	0.4	22	0.6	10	0.5
Factory workers.....	186	3.1	59	1.8	79	2.1	21	1.0
General laborers.....	715	11.9	995	30.3	1,085	29.2	724	34.9
Hotel workers, etc.....	333	5.5	179	5.5	213	5.8	109	5.2
Janitors, etc.....	88	1.5	51	1.6	53	1.4	41	2.0
Machinists.....	318	5.3	307	9.3	330	8.9	157	7.6
Machine hands.....	553	9.2	77	2.3	119	3.2	44	2.1
Messengers, etc.....	108	1.8	47	1.4	56	1.5	26	1.3
Painters, etc.....	178	2.9	62	1.9	79	2.1	45	2.2
Plumbers, etc.....	88	1.5	17	0.5	27	0.7	11	0.5
Polishers, etc.....	37	0.6	9	0.3	12	0.3	6	0.3
Porters.....	80	1.3	71	2.2	79	2.1	51	2.5
Printers, etc.....	31	0.5	2	0.1	1	*0.0	1	*0.0
Salesmen, etc.....	350	5.8	150	4.6	132	3.6	43	2.1
Tinsmiths, etc.....	43	0.7	3	0.1	2	0.1	2	0.1
Occupations not otherwise classi- fied.....	378	6.3	118	3.6	127	3.4	54	2.6
Totals.....	6,017	100.0	3,283	100.0	3,713	100.0	2,074	100.0
<i>Syracuse Office: Females</i>								
Clerical workers, etc.....	293	11.8	70	3.1	97	4.1	38	3.1
Day workers.....	7	0.3	9	0.4	11	0.5	8	0.7
Domestics, etc.....	1,173	47.8	1,404	61.5	1,546	64.8	801	65.2
Factory workers.....	256	10.3	214	9.4	227	9.5	132	10.7
Hotel workers, etc.....	472	19.0	467	20.4	426	17.8	232	18.9
Printers, etc.....	10	0.4	1	*0.0	2	0.1	.....	.....
Saleswomen, etc.....	62	2.5	74	3.2	26	1.1	11	0.9
Occupations not otherwise classi- fied.....	207	8.4	45	2.0	50	2.1	6	0.5
Totals.....	2,480	100.0	2,284	100.0	2,385	100.0	1,228	100.0

*Less than 0.1 per cent.

Table II.—NUMBER OF REGISTRATIONS, POSITIONS OFFERED, PERSONS REFERRED AND PERSONS REPORTED PLACED BY OCCUPATIONS—(Continued)

OCCUPATIONS	REGISTRATIONS		POSITIONS OFFERED		NUMBER REFERRED		REPORTED PLACED	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
<i>Rochester Office: Males</i>								
Agricultural workers.....	1,000	15.2	1,083	28.5	1,074	29.4	741	34.9
Bakers and butchers.....	44	0.7	14	0.4	15	0.4	4	0.2
Blacksmiths, etc.....	45	0.7	8	0.2	8	0.2	2	0.1
Boilermakers, etc.....	5	0.1	.....	.....	.....	.....	.....	.....
Bricklayers, etc.....	61	0.9	15	0.4	17	0.5	5	0.2
Carpenters, etc.....	434	6.6	170	4.5	147	4.0	54	2.5
Chauffeurs, etc.....	277	4.2	83	2.2	99	2.7	51	2.4
Clerical workers, etc.....	365	5.6	56	1.5	78	2.1	31	1.5
Coremakers, etc.....	22	0.3	.....	.....	.....	.....	.....	.....
Electrical workers.....	71	1.1	3	0.1	3	0.1	1	0.1
Engineers, etc.....	164	2.5	16	0.4	22	0.6	7	0.3
Factory workers.....	679	10.3	165	4.3	199	5.4	108	5.1
General laborers.....	1,022	15.6	1,018	26.8	687	18.8	483	22.7
Hotel workers, etc.....	248	3.8	141	3.7	160	4.4	81	3.8
Janitors, etc.....	145	2.2	206	5.4	215	5.9	159	7.5
Machinists.....	227	3.5	179	4.7	192	5.3	67	3.2
Machine hands.....	405	6.2	115	3.0	142	3.9	53	2.5
Messengers, etc.....	106	1.6	61	1.6	81	2.2	36	1.7
Painters, etc.....	128	1.9	54	1.4	49	1.3	20	0.9
Plumbers, etc.....	79	1.2	8	0.2	8	0.2	3	0.1
Polishers, etc.....	44	0.7	4	0.1	4	0.1	1	0.1
Porters.....	106	1.6	60	1.6	71	1.9	37	1.7
Printers, etc.....	98	1.5	34	0.9	42	1.2	11	0.5
Salesmen, etc.....	364	5.5	131	3.4	134	3.7	71	3.3
Tinsmiths, etc.....	65	1.0	22	0.6	25	0.7	9	0.4
Occupations not otherwise classi- fied.....	359	5.5	154	4.1	182	5.0	91	4.3
Totals.....	6,563	100.0	3,800	100.0	3,654	100.0	2,126	100.0
<i>Rochester Office: Females</i>								
Clerical workers, etc.....	316	15.4	96	4.5	164	7.4	50	5.8
Day workers.....	47	2.3	171	8.0	168	7.6	127	14.6
Domestics, etc.....	875	42.6	1,028	48.1	985	44.4	370	42.7
Factory workers.....	435	21.2	366	17.1	331	14.9	133	15.3
Hotel workers, etc.....	208	10.1	292	13.6	354	16.0	105	12.1
Printers, etc.....	14	0.7	40	1.9	46	2.1	11	1.3
Saleswomen, etc.....	109	5.3	105	4.9	142	6.4	58	6.7
Occupations not otherwise classi- fied.....	49	2.4	40	1.9	27	1.2	18	1.5
Totals.....	2,053	100.0	2,138	100.0	2,217	100.0	867	100.0

Table II.—NUMBER OF REGISTRATIONS, POSITIONS OFFERED, PERSONS REFERRED AND PERSONS REPORTED PLACED BY OCCUPATIONS—(Continued)

OCCUPATIONS	REGISTRATIONS		POSITIONS OFFERED		NUMBER REFERRED		REPORTED PLACED	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
Buffalo Office: Males								
Agricultural workers.....	668	8.4	394	16.4	426	16.1	300	19.0
Bakers and butchers.....	97	1.2	45	1.9	2	0.1	.....	.....
Blacksmiths, etc.....	108	1.4	5	0.2	6	0.2	3	0.2
Boilermakers, etc.....	41	0.5	4	0.2	2	0.1	2	0.1
Bricklayers, etc.....	79	1.0	19	0.8	24	0.9	13	0.8
Carpenters, etc.....	460	5.8	149	6.2	165	6.2	113	7.1
Chauffeurs, etc.....	450	5.6	48	1.8	64	2.4	26	1.6
Clerical workers, etc.....	602	7.5	52	2.2	70	2.7	19	1.2
Coenmakers, etc.....	162	2.0	11	0.5	15	0.6	6	0.4
Electrical workers.....	144	1.8	10	0.4	9	0.3	7	0.4
Engineers, etc.....	328	4.1	23	1.0	41	1.6	14	0.9
Factory workers.....	302	3.8	72	3.0	107	4.1	38	2.4
General laborers.....	1,455	18.2	648	27.0	649	24.6	528	33.4
Hotel workers, etc.....	299	3.7	69	2.9	85	3.2	38	2.4
Janitors, etc.....	188	2.4	115	4.8	124	4.7	99	6.3
Machinists.....	373	4.7	196	8.1	178	6.7	69	4.4
Machine hands.....	664	8.3	163	6.8	219	8.3	91	5.8
Messengers, etc.....	127	1.6	38	1.6	37	1.4	17	1.1
Painters, etc.....	194	2.4	69	2.8	82	3.1	49	3.1
Plumbers, etc.....	124	1.6	6	0.3	2	0.1	2	0.1
Polishers, etc.....	65	0.8	16	0.7	12	0.5	6	0.4
Porters.....	98	1.2	57	2.4	76	2.9	44	2.8
Printers, etc.....	65	0.8	3	0.1	4	0.2	.....	.....
Salesmen, etc.....	435	5.4	86	3.5	94	3.6	32	2.0
Tinsmiths, etc.....	80	1.0	21	0.9	25	0.9	10	0.6
Occupations not otherwise classi- fied.....	381	4.8	84	3.5	120	4.5	56	3.5
Totals.....	7,989	100.0	2,398	100.0	2,638	100.0	1,582	100.0
Buffalo Office: Females								
Clerical workers, etc.....	222	10.9	26	2.1	41	3.1	12	1.6
Day workers.....	36	1.8	9	0.7	9	0.7	8	1.0
Domestics, etc.....	1,067	52.2	882	71.6	916	68.8	572	74.4
Factory workers.....	148	7.2	45	3.7	51	3.8	18	2.3
Hotel workers, etc.....	466	22.8	209	17.0	263	19.8	132	17.2
Printers, etc.....	11	0.5	.....	.....	.....	.....	.....	.....
Saleswomen, etc.....	60	2.9	41	3.3	40	3.0	17	2.2
Occupations not otherwise classi- fied.....	34	1.7	19	1.6	11	0.8	10	1.3
Totals.....	2,044	100.0	1,231	100.0	1,331	100.0	769	100.0

Table II.—NUMBER OF REGISTRATIONS, POSITIONS OFFERED, PERSONS REFERRED AND PERSONS REPORTED PLACED BY OCCUPATIONS—(Concluded)

OCCUPATIONS	REGISTRATIONS		POSITIONS OFFERED		NUMBER REFERRED		REPORTED PLACED	
	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent	Num-ber	Per-cent
<i>Albany Office: Males</i>								
Agricultural workers.....	343	12.2	239	25.1	301	23.3	185	26.7
Bakers and butchers.....	45	1.6	12	1.3	15	1.2	6	0.9
Blacksmiths, etc.....	17	0.6	2	0.2	5	0.4	2	0.3
Boilermakers, etc.....	3	0.1	.....	.....	.....	.....	.....	.....
Bricklayers, etc.....	39	1.4	3	0.3	7	0.5	.....	.....
Carpenters, etc.....	140	5.0	26	2.7	29	2.2	17	2.4
Chauffeurs, etc.....	198	7.1	8	0.8	14	1.1	6	0.9
Clerical workers, etc.....	195	6.9	10	1.1	22	1.7	6	0.9
Coemakers, etc.....	32	1.1	10	1.1	12	0.9	9	1.3
Electrical workers.....	42	1.5	4	0.4	4	0.3	.....	.....
Engineers, etc.....	106	3.8	2	0.2	2	0.2	1	0.1
Factory workers.....	95	3.4	12	1.3	16	1.2	8	1.2
General laborers.....	266	9.5	180	18.9	219	17.0	138	19.9
Hotel workers, etc.....	376	13.4	140	14.7	213	16.5	107	15.5
Janitors, etc.....	43	1.5	32	3.4	33	2.6	29	4.2
Machinists.....	120	4.3	20	3.1	36	2.8	15	2.2
Machine hands.....	94	3.4	59	6.2	61	4.7	59	8.5
Messengers, etc.....	29	1.0	9	0.9	13	1.0	8	1.2
Painters, etc.....	72	2.6	12	1.3	11	0.9	8	1.2
Plumbers, etc.....	53	2.1	2	0.2	4	0.3	2	0.3
Polishers, etc.....	4	0.1	.....	.....	.....	.....	.....	.....
Porters.....	79	2.8	25	2.6	48	3.7	22	3.2
Printers, etc.....	46	1.6	7	0.7	4	0.3	1	0.1
Salesmen, etc.....	183	6.5	68	7.2	150	11.6	43	6.2
Tinsmiths, etc.....	19	0.7	7	0.7	9	0.7	3	0.4
Occupations not otherwise classi- fied.....	163	5.8	53	5.6	63	4.9	17	2.4
Totals.....	2,807	100.0	951	100.0	1,291	100.0	692	100.0
<i>Albany Office: Females</i>								
Clerical workers, etc.....	104	12.5	7	1.3	14	1.9	5	1.4
Day workers.....	80	9.7	37	6.9	41	5.4	33	9.5
Domestics, etc.....	250	30.2	262	48.6	411	54.5	159	46.0
Factory workers.....	57	6.9	32	5.9	31	4.1	21	6.1
Hotel workers, etc.....	283	31.1	166	30.8	227	30.1	111	32.1
Printers, etc.....	6	0.7	3	0.6	5	0.7	2	0.6
Saleswomen, etc.....	29	3.5	20	3.7	14	1.9	9	2.6
Occupations not otherwise classi- fied.....	20	2.4	12	2.2	11	1.5	6	1.7
Totals.....	829	100.0	539	100.0	754	100.0	346	100.0

Table III. REGISTRATIONS AND PERCENTAGE DISTRIBUTION BY OCCUPATION GROUPS

MALES

CITY	Number of males registered	PER CENT		
		Skilled work, factory work and clerical	General labor, day work, casual, messenger and porter	Agricultural
Brooklyn (9 months).....	14,317	81.2	16.4	2.4
Syracuse (8 months).....	6,017	70.0	15.0	15.0
Rochester (8 months).....	6,563	66.0	18.8	15.2
Buffalo (8 months).....	7,989	70.6	21.0	8.4
Albany (5 months).....	2,807	74.5	13.3	12.2
Total.....	37,693	74.0	17.3	8.6

FEMALES

CITY	Number of females registered	PER CENT			
		Clerical work and saleswomen	Domestic and day work	Hotel, restaurant and institutional work	Factory and all other work
Brooklyn (9 months).....	4,455	24.4	40.1	7.9	27.6
Syracuse (8 months).....	2,480	14.3	47.6	19.0	19.1
Rochester (8 months).....	2,053	20.7	44.9	10.1	24.3
Buffalo (8 months).....	2,044	13.8	54.0	22.8	9.4
Albany (5 months).....	829	16.0	39.8	34.1	10.0
Total.....	11,861	19.2	44.9	15.0	20.9

Table IV. NUMBER OF POSITIONS OFFERED AND PERCENTAGES BY
OCCUPATIONAL GROUPS

MALES

CITY	Number of male positions offered	PER CENT		
		Skilled work, fac- tory work and clerical	General labor, day work, casual, messenger and porter	Agricul- tural
Brooklyn (9 months).....	3,266	68.5	29.7	1.8
Syracuse (8 months).....	3,283	42.0	33.9	24.1
Rochester (8 months).....	3,800	41.5	30.0	28.6
Buffalo (8 months).....	2,398	52.6	31.0	16.4
Albany (5 months).....	951	52.4	22.5	25.1
Total.....	13,698	50.8	30.5	18.7

FEMALES

CITY	Number of female positions offered	PER CENT			
		Clerical work and saleswomen	Domestic and day work	Hotel, restaurant and institu- tional work	Factory and all other work
Brooklyn (9 months).....	2,966	9.9	41.7	12.8	35.5
Syracuse (8 months).....	2,284	6.3	61.9	20.4	11.4
Rochester (8 months).....	2,138	9.4	56.1	13.6	20.9
Buffalo (8 months).....	1,231	5.4	72.4	17.0	5.2
Albany (5 months).....	539	5.0	55.5	30.8	8.7
Total.....	9,158	8.0	55.0	16.5	20.4

Table V. NUMBER OF PLACEMENTS AND PERCENTAGES BY OCCUPATIONAL GROUPS

MALES

CITY	Number of males reported placed	PER CENT		
		Skilled work, factory work and clerical	General labor, day work, casual, messenger and porter	Agricultural
Brooklyn (9 months).....	2,007	66.2	31.8	1.9
Syracuse (8 months).....	2,074	35.9	38.6	25.5
Rochester (8 months).....	2,126	39.0	26.1	34.9
Buffalo (8 months).....	1,582	43.8	37.2	19.0
Albany (5 months).....	692	49.0	24.3	26.7
Total.....	8,481	46.4	32.5	2.11

FEMALES

CITY	Number of females reported placed	PER CENT			
		Clerical work and saleswomen	Domestic and day work	Hotel, restaurant and institutional work	Factory and all other work
Brooklyn (9 months).....	1,700	9.0	44.1	15.8	31.1
Syracuse (8 months).....	1,228	4.0	65.9	18.9	11.2
Rochester (8 months).....	867	12.5	57.3	12.1	18.1
Buffalo (8 months).....	769	3.8	75.4	17.2	3.6
Albany (5 months).....	346	4.0	55.5	32.1	8.4
Total.....	4,910	7.2	57.6	17.3	17.9

(2) REPORTS OF SUPERINTENDENTS OF BRANCH OFFICES

(A) BROOKLYN OFFICE

To the Director:

I beg to submit herewith a report of the work of the Brooklyn office of the State Public Employment Bureau for the year 1915.

The Brooklyn office of the State Public Employment Bureau was opened on January 4, 1915. During the first few weeks the office was crowded throughout the entire day with hundreds of men seeking employment. I had visited many employers during the month of December, and had been informed that January was a very poor month for men seeking employment. Many of these employers shut down their factories during the first half of January to take inventory; others said that their season ended with December, and that January and February were their slack months; others informed me that they were employing only a small proportion of their normal force, had shut down entirely, or were running only part time on account of general business depression.

At the time this office opened it was estimated that there were from three hundred thousand to five hundred thousand persons in New York City out of work. Very few factories were running full time; a great many were running part time, and a large number were employing only about ten per cent of their normal force. The building trades were practically at a stand-still, and the skilled workmen in these lines were added to the thousands of factory workers who could not find employment. The various federal and state departments collecting statistics on trade, manufacturing and employment declared that business conditions were the worst on record for several years. It was very difficult to secure the co-operation of employers. They informed me that they were turning men away from their doors by hundreds each day. Seldom did they need a man, and when the time came it was necessary only to go to the door to select a capable worker out of the crowd that waited from morn until night at the entrance. When labor was so plentiful it was hardly expected that an

employer would call upon this office for a worker. However, the orders did come. At first they were for men to do heavy work or to help the skilled mechanics. Then orders came for young men to work in wholesale dry-goods houses which were beginning to feel the touch of prosperity in the West, but which had not yet reached New York City. Shops located outside of New York City manufacturing guns, ammunition, rifles, boots and shoes, army clothing, rubber goods, war automobiles and other war material, received large orders from foreign governments and gave employment to thousands of workers. For this reason unemployment was not so severe in many places outside of New York City. Many workers of this city secured positions in these out-of-town factories.

It was not until March that business began to pick up. In this month several concerns in this city received war orders and this office managed to secure several orders for workers from employers. The foremen who did the hiring for many firms were able to get all the men wanted at the factory or workshop door. Many of these foremen were persuaded that the Public Employment Office was a good distributing center and they, therefore, gave it their support. It was in March also that the law prohibiting the employment of aliens on public works was strictly enforced, and during the litigation over this matter hundreds of more or less skilled men secured positions, through this office, as laborers on subway work. It is interesting to note that one man who accepted employment as a laborer was soon promoted to carpenter work, later on was made an assistant foreman and finally became a foreman. In a large number of cases men who accepted employment as laborers afterwards received skilled work whenever the openings occurred. With the coming of spring, work on farms was obtained for many men; others went back to work in the various branches of the building trades. Shops manufacturing machinery, machine parts, automobile parts, tin cans and other sheet metal goods began to run on full time again. Some shops making war supplies hired night shifts, and a few factories had three shifts of men working eight hours each. The office began to fill many positions.

The entrance of Italy into the war not only stopped immigration to this country, but also caused thousands of Italians to return to their native land. Immigration from Europe had fallen off to such an extent that a shortage of common labor resulted. Employers complained that it was hard to obtain Italian, Polish or Slavic workmen. They said that persons born in this country either could not do the work or found it unpleasant. This office was able to supply a number of laborers to these concerns. At this time a number of longshoremen were supplied to one of the dock companies. In the beginning these men were hired for work which at first lasted from one week to a month. But lately the majority of them have been steadily employed. The war has caused such a rush of shipping that sailors and dock workers find it easy to obtain employment.

The Brooklyn branch office is located within five minutes' walk of the Borough Hall subway station, and the surface cars running through Brooklyn and over the Brooklyn bridge pass the office door. These transportation facilities enable the office to make placements all over Greater New York. Naturally the larger portion of the office's work is in the Borough of Brooklyn. Employers, however, in Manhattan and other parts of the city began to make demands on the Bureau. As a result, many persons have been placed in positions outside of the office's immediate territory. In lower Manhattan many placements of office help (men, women and boys) have been made. Many machinists have been sent to positions in Jersey City, and several ship carpenters to work in Hoboken. Many workers are also sent to the Boroughs of Richmond, Bronx and Queens. Farm hands have been sent to points on Long Island, up-state, to New Jersey and to Connecticut. Men who are without homes and have formerly worked as waiters or on ships have been sent to positions as stewards on coastwise or ocean steamships.

Manufacturers of men's shirts and women's wear have made use of the office to some extent, for male and female help, and have even taken learners when they could not obtain experienced women operators. Clothing manufacturers occasionally make use of the Bureau for clerical help or for shipping clerks.

Practically every branch of the metal and machinery industry has made some use of the office. There have been calls for gold, silver and jewelry workers; for smelting and refining workers; for brass, bronze and copper workers, and for workers in machine shops and in foundries. In this industry, more than any other, there have been calls for laborers, for helpers, for semi-skilled workers, for high-grade machinists, tool and die makers and for foremen.

That the Public Employment Bureau performs a needed service is shown by the testimony of employers who recommend others to use it and write letters of thanks to the office. To acquaint manufacturers and the unemployed with this labor exchange will require a continuous campaign of publicity in the coming year.

The results of the Public Employment Bureau in 1915 have fully justified its existence, and a forecast for the year 1916 promises even greater success.

RICHARD A. FLINN,
Superintendent.

(B) WOMEN'S DEPARTMENT OF BROOKLYN OFFICE

To the Director:

I herewith submit a report of the year's work in the Women's Department of the State Public Employment Bureau in Brooklyn, N. Y.

The big task during the first year of any business, whether it be public or private, is the establishing of public confidence. During this period must be laid at least the beginning of a solid foundation upon which to build up the business. For this reason actual returns are only an index of the work that has been accomplished and do not indicate the solidity of the foundation.

In developing the Women's Department of the State Public Employment Bureau in Brooklyn, the aim has been not to secure a large number of applicants and placements, but to secure results which might be a foundation for larger and better returns in the future. The object of the Bureau is not to fill a lot of low paid jobs, lasting a few days, but rather to place applicants in steady positions and to make them realize that the Bureau can help them

better than they can help themselves by seeking their own jobs through advertisements or house-to-house application.

Like any other new business, the Bureau has been somewhat handicapped in its first year's work. In the first place, when the Bureau opened its doors in January, 1915, not a worker in the office had had any previous experience in employment bureau work. The first year's work has meant the training of a staff in all the intricacies of placement problems. Moreover, the Bureau was handicapped in that it represented a totally new idea to the public mind. Many people did not know what a public employment bureau meant and thought it another relief agency, while others distrusted it, as they do private employment bureaus. The Bureau has been trying to overcome both these prejudices. It was also opened at a time when unemployment was at its worst, when openings were few and far between — at a time when a new bureau could do little more than register the unemployed, inasmuch as it was not an agency to make work but to bring together the worker and the job. Finally, the Bureau has been somewhat handicapped by uncongenial, unattractive quarters, with the same entrance for men and women.

In spite of these handicaps, however, the Women's Department has been able to make some headway during the past year in serving as a labor market. That the Bureau has begun to win the public confidence is shown in several ways. While in its early stages it was called upon chiefly to supply unskilled labor and the lowest grade of help, it is now receiving calls for experienced workers in all lines — restaurant managers, housekeepers, trained nurses, office managers, private secretaries, stenographers (at salaries from \$15 to \$20 a week), designers, etc. The Women's Department during the year has counted among its other good placements several high salaried stenographers (with college and language qualifications), millinery saleswomen, a cook at \$70 a month and maintenance, and an assistant superintendent in a large institution. Employers, in fact, are beginning to give preference to applicants having a Bureau introduction card, and some employers, both in Manhattan and Brooklyn, are getting all their help through the Bureau. Employers are giving their co-operation

not only in using the Bureau, but in referring applicants to it and urging other employers to use it.

A better grade of applicants is making use of the Bureau. The confidence of the applicants in the Bureau is shown by their readiness to refer other applicants to the office, and even to inform us of openings of which they have heard. We feel that the Department has taken a long stride ahead, when both employers and workers are co-operating with us to develop the work.

This confidence has been brought about in several ways. The Bureau has made every effort to send the right applicant to each position. To ascertain the fitness of the office workers, a simple test has been introduced. All workers are questioned very closely as to their experience and ability. In this way we have been trying to send the employer the kind of help he wants. On the other hand, we have often been able to get the applicant a better job than she could have found for herself, and more quickly. The policy is to treat the applicant as an individual, each getting individual attention, and not being handled as a "job lot." We feel that our task is one of placing applicants rather than filling positions. To succeed, a bureau must have the confidence of wage-earners as well as employers.

The work of the Bureau when it first opened in January, 1915, was poor and discouraging, so far as actual placements were concerned, but there was at least one good feature, namely, that we were introduced to a large number of wage-earners, if not to employers. While we could often offer only sympathy and a smile, yet we could at least secure their confidence, as shown by the fact that many have come back to us later and sent their friends. Even though we could not at first secure positions for them, we were able, often, to direct women and girls, who had been in trades seriously affected by the war, into other lines where their past experience might be of some use. Moreover, the interview at the Bureau was often a relief to some of these discouraged women, for then they felt that the state was trying to do something to help them.

But as times began to prosper, as industrial and financial conditions began to readjust themselves, the work of the Women's Department began to grow and the need for such a bureau became

apparent. The figures for the Women's Department show a steady growth of placements. The Bureau is becoming recognized as a labor market for the rank and file of wage-earners, from the errand girl to private secretary, dishwasher to restaurant manager, day-worker to housekeeper, apprentice to designer, learner to forewoman. But mere placements do not represent the only work of the Bureau. For the last few weeks employers on all sides have been crying aloud about the scarcity of labor. In the midst of this a woman who had been idle for two months came to the Bureau. A position was secured for her immediately. Later it was learned that she had been fully prepared to commit suicide if she had not found work at that time. The statistical report of the Bureau will in this instance show only one more position filled. It will not tell of the saving to the state of a capable, able-bodied wage-earner.

The Department also has to undertake a certain amount of vocational guidance work. The Board of Health is directing all girls, as soon as they receive their working papers, to the Bureau. The Department is also co-operating with the public day and evening schools, with vocational guidance associations, settlements and other social organizations.

It has also had a problem in directing and advising older women who have re-entered industry or who have been declared "too old" for their former jobs. In many cases it has required great tact and ingenuity to get them settled.

When we consider our responsibility for these young girls and older women, in choosing their careers, or at least in directing them, the need is apparent for an office force large enough so that each applicant may be carefully interviewed and so that there may be opportunity for visiting and knowing the places of employment to which we direct them.

The year's work has pointed out some possibilities of expansion.

1. The need for a nurses' registry in the Bureau. While this work is highly skilled and well paid, it is casual and irregular. Such a registry should handle both private cases and hospital work. The Bureau has already been able to place applicants in

this field, but we ought to have the means for expanding this line.

2. Need for one person devoting all her time to juveniles under sixteen years of age. Children ought not to be merged with the men and women, as they need special attention.

3. Larger opportunity for soliciting and visiting among employers, to secure orders, to get a better understanding of the process of work and conditions of employment. Only with first hand knowledge of industrial conditions can the Bureau handle the labor market intelligently. We owe it to the employer to select the right applicant, and this we do after a personal interview with the worker. Likewise, we have a similar obligation to the worker to select the right job for him by interviewing the employer and finding out the conditions of employment.

4. Need for closer co-operation with other bureaus (whether public or private) which do not charge a fee.

LOUISE C. ODENCRANTZ,
Superintendent, Women's Department.

(C) SYRACUSE OFFICE

To the Director:

I beg to submit herewith a general report of the Syracuse branch office, from its opening on January 25, 1915, until this time.

The purpose of this report is to show the scope, opportunities for service and problems confronting a normal and healthy public employment bureau, together with its general history. No statistical information is given, as a full statistical report will be found elsewhere.

This Bureau was opened at a time when the unemployment situation was at its worst. Thousands of able-bodied, reliable workers, both skilled and unskilled, were walking the streets in a vain search for work. Mills were shut down entirely, or employing only a minimum force of workers. A Mayor's Committee on Unemployment was endeavoring to cope with the situation, or at least to alleviate conditions, but because of lack of

funds and incomplete organization, etc., was unable to accomplish much in a tangible way. Public interest was aroused. The panhandler and the habitual down-and-outer were reaping the benefits. Relief agencies were overtaxed, and indiscriminate charity was working havoc. Good workers did not want charity, but the opportunity to work. The panhandler did not want work, but charity. Consequently, the efforts to meet the situation defeated themselves.

Under these conditions the opening of the State Employment Bureau was looked upon as a panacea. The public seemed at first to think the Bureau had power to create jobs; that these were kept pigeon-holed and all that was necessary was to hand them out. Offices had been rented and equipped on the sixth floor of the Cahill Building, on South Salina Street. The Mayor's Committee had been using these offices, by permission, for a couple of weeks previous to the opening of the Bureau. The location was central and well known, and when the state assumed control, the office was literally deluged with a flood of applicants. The clerk retained by the Mayor's Committee was loaned to assist the Superintendent of the State Bureau. At the end of a week a woman's department was organized and a woman assistant employed. The rush of applicants and the work of organizing this department proved too severe a task, however, and in two weeks the woman assistant resigned, completely broken down in health. During this period the Superintendent was able to secure the services of several volunteer workers who were looking forward to taking the examination for assistant superintendent. Some of these workers are now permanently appointed. About this time the city of Syracuse took over the work of the Mayor's Committee and continued its clerk on a salary, giving him the title of "Superintendent of Employment and Planting." He was assigned to the Department of Charities and detailed for work in the state employment office whenever not employed in the work of supervising the planting of vacant lots which were solicited and assigned to needy families by the Department of Charities. On March 22d, a woman was provisionally appointed to take charge of the women's department, which up to this time had been conducted by the Superintendent and volunteer assistants. By the

15th of April suitable assistants had been trained, selected and appointed for the work.

The period from the opening of the Bureau up to this time may be called the formation period. The offices on the sixth floor of the Cahill Building were found to be too inaccessible, and another location on West Onondaga Street was secured. Here the noise from the railroad and factory overhead made this situation impossible. On June 1, the offices moved to 120 West Jefferson Street. The present location is admirably adapted for the work, the only objection being that the offices are on the second floor.

During the entire first year the office has been struggling against false impressions and misconceptions. In the first place, being a public bureau, it had to face the impression that it was a charitable institution. All the unemployable of the city flocked to the office for relief. One good woman called up and offered to provide a limited number of meals for people recommended as most needy. Others sent offers of cast-off clothing, etc. It was only by vigorous advertising and constant talking that the office has been able to shake off these misconceptions. Public addresses before clubs and various other organizations have been of great value in getting the Bureau before the public in its proper light.

Another misconception has been that the office was handling only unskilled workers and farm hands. It has been a hard, uphill course to get employers to realize that the office is able to supply them with clerical, professional and highly skilled employees. In the early months the wages offered in many instances would not appeal to the better class of workers. In fact, the women's department was compelled to state that it could not fill some of the orders because of the wages offered. Good service rendered has gradually overcome this prejudice until at the present time the office is getting more calls for highly skilled workers than it can fill. Several firms have been brought to the point of giving the Bureau the opportunity to fill all openings of every kind in their plants.

Syracuse has a population of about 138,000. It is located in the heart of a rich agricultural region, and is a center from which trolley and steam lines radiate in every direction. This makes it an ideal city in which to locate a public employment bureau.

Its leading industries are steel mills, gear, typewriter and automobile factories, and the manufacture of chemicals. This city is growing rapidly and developing commercially, thus giving employment to a large number of widely varied type of workers. Many of these large corporations, however, have well equipped and long established employment bureaus of their own. The men in charge of these bureaus have sometimes been loath to use the state office, except in cases where it was impossible for them to get the kind of workers they were looking for at their doors. Very often, however, the office has been able closely to co-operate with these employment men to mutual advantage. It has been very hard to convince the employing public in general of the social and economic waste of hiring at the door.

The calls for farm hands and domestics have exceeded all other calls. Many excellent paying positions frequently go unfilled in these occupations for lack of applicants. One of the disadvantages of farm work is that it is seasonal, many farmers hiring for eight or nine months only. By co-operation with the local Farm Bureau and by speaking before various grange organizations, the use of the Bureau has been extended very widely. The farm bureau and the grange should encourage farmers to hire by the year, using the winter months for repairs of farm machinery, barn alterations, etc. Farm owners should be more willing to take inexperienced help at a reasonable wage and teach them farming. Farmers have been encouraged to come to the office and select farm hands, notifying the office in advance of their coming. Our experience, however, has been that the farm hands selected by the office force and sent out have been more satisfactory than those hired at the office by the farmer himself. The office attempted to set aside one day as "Farm Day," but found this unsatisfactory.

There is always a dearth of good houseworkers. The Syracuse office has filled positions paying from five to ten dollars per week and maintenance. If housewives would systematize the work and regulate the hours of domestics, giving them some of the liberty enjoyed by clerks and stenographers, it would go a long way toward solving this problem.

The Syracuse office was the first to take up the placing of teachers. The office found this field already occupied, and took up the work so late in the season that no fair estimate of the possibilities can be given. However, the average wage of teachers throughout the state is so small and the necessity of a teachers' bureau so apparent, that it would seem as though the State Employment Bureau could be of inestimable value to this profession. To make this phase of the work most successful, designation should be made of the State Employment Bureaus throughout the state as official teachers' agencies. This would require one or more persons in each office, with knowledge of teaching or experience in placing teachers, who would devote their time exclusively to this work. In fact, the policy of specialization in this office has proven very satisfactory. Each assistant has charge of the registering and placing of such applicants as experience and training have fitted him for. We have separate desks in both the men's and women's departments for skilled and unskilled workers.

One of the most vital elements in the success of a public employment bureau is a favorable attitude on the part of the press. Too much cannot be said of the good work of the local newspapers. At all times they have been favorable, willing and glad to give space to the work of the Bureau. Much of the success of the local office is attributable to this favorable attitude. Another factor which has been of great help has been the personal acquaintance of the Superintendent and assistants with a large number of local employers. In every case where possible this has been utilized. The co-operation of the city authorities and the friendly and interested attitude of the Mayor have been of great value.

The number of workers in the Syracuse office at the present time is seven — a Superintendent, four assistant superintendents, a stenographer and a laborer. Each of the assistant superintendents has charge of a department, two in the men's and two in the women's. The stenographer is also the bookkeeper, record clerk and switchboard operator. The laborer keeps the office clean, acting as janitor. The office needs at present a clerk familiar with the Italian, Polish and Slavic languages, and will soon need a filing clerk.

Summing up the work of the year, the phase which I believe to be of most value to our community is that the Bureau has not only become quite extensively a place where employers can list their wants and where employees can register and be brought into touch with prospective openings — but also a bureau of vocational counsel and advice. Many young people have been started right industrially and many men of families have been kept employed more regularly than previously. Further, we have been able to dovetail workers in industries to a certain extent. For instance, scores of farm hands and lake sailors, who under ordinary circumstances return to the cities in the fall and winter, have been sent into lumber and construction camps. This office has been of great value to the farming interests of this section in the hay-ing and harvesting seasons. In the placing of skilled mechanics and common laborers we have rendered good service.

It is evident that the Bureau has made rapid progress during the first year of its existence, and is more and more proving its usefulness and value to the community in which it is located.

WILBUR T. CLEMENS,
Superintendent.

(D) ROCHESTER OFFICE

To the Director:

I respectfully submit the following report of the first year's work of the Rochester office of the State Public Employment Bureau.

Although Rochester is a progressive city, ready to seize any measure that is designed for its betterment, certain prejudices had to be overcome when the Public Employment Bureau was opened. The workers regarded it as a mecca for the "down and outs;" the employers considered it a political scheme to create jobs for henchmen, and the general public thought it a charitable measure to provide relief for the unfortunates. When it was found that it was a business proposition, designed to furnish capable men and women for any conceivable occupation, the skilled workers quickly forgot to mention their apologies for coming to such a place and the employers soon found it a clearing house through

which they might secure the best workers. Likewise the general public, thanks to the splendid co-operation of the newspapers of the city, now appreciate it as one of those great social service organizations of the government which, like the public schools and the public library, is so impartially managed that any man or woman regardless of race, creed or condition obtains a "square deal."

It has been of value to the employer in saving him the expense, delay and annoyance of securing his help through the old round-about methods. To illustrate, a manager of a large business office asked us this question, "Do you happen to have a correspondent, a high class office man who has had experience in handling a large mail, and who possesses executive ability to manage a department?" He was informed that the office had a number of such applications and readily found a man who reported for duty next morning. Such prompt service would have been impossible under any other arrangement than a public employment bureau.

At the outset the greatest problem was the selection of an office staff, capable of handling the problem. It was a difficult proposition. A man or woman might be splendidly qualified to fill a position in almost any other line, yet lack the essential requirements for a public employment bureau agent. Yet, as a result of a civil service examination, a force was secured which, though far too small in numbers, possesses tact, general experience, education and enthusiasm to such a degree that it is not a matter of time requirements, but of possibility of accomplishing things regardless of hours of service.

It was also necessary to persuade the employers into the habit of using the office. Too often was the remark made, at first, "I forgot all about you." We were required to persistently "follow up prospects" until we had convinced them of the value of the Bureau. In the Spring most of the large companies were personally visited by a representative of the office. At first the common objection was that the office would not have "any applicants in our line." After a concern had accepted the invitation to give us a trial, it was found that few had failed to continue as customers. At the present time over 3,000 employers are patronizing the office. Calls have been received for almost every occupation

of man or woman from highly skilled professional workers to a pallbearer. Positions have been offered which paid as high as \$2,000 a year.

Rochester is known as a "city of varied industries," hence it forms a fruitful field for a public employment office. It is one of the leading cities in the United States in the manufacture of men's clothing. There are 106 clothing factories, employing over 10,000 workers. In spite of the fact that the clothing association maintains an efficient employment department, patronized by practically all shops in the trade, the Public Employment Office has had heavy demands for skilled workers and apprentices, both male and female, from this trade.

The machine shops everywhere have been unusually busy during the past year, consequently the call for machinists has far exceeded the supply. The office has supplied men not only for local shops but also for factories throughout this section and even as far as Olean and Niagara Falls.

Agriculture is the greatest industry of this section. Monroe is one of the three leading counties in the United States in the raising of farm products. The farmer has made greater use of the office than any other class of employers. During the first eleven months the Rochester office had calls for over 1,500 agricultural workers, including farm hands, fruit pickers, gardeners and packers. As far as reports have been received, over one thousand of these positions have been filled by the office.

Many problems have confronted the staff in developing the office. It was necessary to secure the confidence of the employer. This necessitated unusual care in analyzing and selecting applicants for positions offered. That this careful selection brought its rewards is proven by the frequently made statements on the part of employers that "You know the type of person I desire."

Another situation that had to be tactfully met was the tendency on the part of employers to call for more people than they had positions to fill. Such a condition, if allowed to continue, would, in the course of time, have caused the loss of considerable money in carfare to the workers who could ill afford to spend it. When the matter was explained to them in the right light, many employ-

ers readily agreed to state their exact requirements, both as to numbers and special qualifications desired.

The Public Employment Bureau was primarily designed to reduce unemployment. In keeping with this principle, the staff of the Rochester office has been constantly studying the problem to devise means of reducing the number of unemployed. It was found that many of the men out of work, who congregate in the cities during the winter months, were farm hands whose contract of service had expired, consequently we adopted the plan of urging farmers to hire their men by the year instead of the month. The men were ready to work at greatly reduced rates for the winter months. Thus the farmer was able to secure better and steadier help than heretofore and the man was assured of regular employment at least until the next season opened. This plan will be followed to even a greater extent next spring.

In many industries there are special conditions which involve employment of extra help for a few weeks or months. During the past year this was especially true of the metal trades. In such cases the men or women were instructed to report to this office immediately upon the completion of one job, when in many cases they were at once sent to other jobs. Thus the Employment Bureau acts as a clearing house for labor. It is the only agency which can perform this service.

The men's department has found the most serious problem to be that of transportation. In many cases where men were sent to out-of-town jobs, the employer paid the railroad fare, but, frequently, when the employer refused to advance the price of a ticket, an industrious man might lose the opportunity of securing a good job through lack of the necessary funds. Provision ought to be made for the transportation of unemployed men at reduced rates.

It has also been found that a good man, after a long period of unemployment, will become shabby in appearance, thus losing the opportunity to obtain good positions. The average employer, confronted by a number of men, some more prosperous than others, hasn't time to listen to each man's story. Frequently, employees of this office have discovered "diamonds in the rough" among such men.

By experience it has been learned that a telephone conversation with a prospective employer, explaining conditions frankly and fully, will obtain an applicant a job.

In the women's department more serious problems were presented. A smaller percentage of women than of men read the newspapers. Hence it was necessary to adopt other means than publicity and advertising to get good women to come to the office. The co-operation of women's organizations, the Y. W. C. A., the churches and clubs was enlisted with the result that employers report that they are securing a higher class of female workers through the Public Employment Bureau than through any other source.

Our experience convinces us that the average woman has far less necessity for obtaining steady employment than the man. Even in the case of self-supporting women, the desire for occasional and even frequent "vacations" is strong. Where a man, as a rule, will accept any position he thinks he can fill, the average woman is very particular. She desires to know all the positions open, even though you inform her that she is not competent to fill them. Consequently it has become necessary to carefully examine each female applicant, determine her qualifications, her likes and dislikes, and then offer her one position. By experience the women have found it advisable to take the position offered.

The women's department has registered a long list of capable laundresses, so that the housewives now recognize the services of our office in this line.

The domestic offers the most perplexing problem of the work. Not only is the demand far in excess of the supply, but the requirements of housewives are so strict and the desires of the applicant so peculiar that it is difficult to obtain a fair ratio of positions filled.

In most cases the needs of the home are so urgent that the housewife will adopt all possible means of obtaining help. Frequently positions will be filled before the office has had an opportunity to refer an applicant. This has resulted in loss of time, carfare and respect for the Bureau on the part of the domestic herself. Consequently, a housewife on placing an order with us

is asked to notify the office immediately if she secures help elsewhere and also pay the carfare of applicants interviewed.

The office first occupied two small rooms on the sixth floor of an office building. Four weeks later a ground floor store was secured which provided over three times as much space. It was thought that these quarters would be sufficient for some time to come, but our branch has grown so fast that now, less than ten months later, the present location is much too small to adequately take care of the business.

The Rochester office should be located in a large well-lighted ground floor store, preferably on a corner in a good section. Ventilation should be one of the primary requisites. Separate departments should be provided for the following: (1) skilled men; (2) farm hands; (3) unskilled men; (4) factory and office women; (5) domestics and hotel women; (6) juveniles; (7) order department; (8) executive offices. At least 4,000 square feet are needed.

The office force is much too small properly to handle the work. So great has been the rush of business that it has been found practically impossible to register applicants except such as are needed to fill jobs on hand. At this time there are five members of the local staff with duties as follows:

(1) Superintendent: (a) general supervision of office, (b) preparation of publicity and advertising, (c) assist in women's department, (d) visit employers, (e) miscellaneous, including attending and speaking at meetings, receiving employers, etc.

(2) First assistant superintendent — female: (a) supervision of women's department, (b) registering and referring most of female applicants, (c) visiting employers, (d) filing records, (e) assist in general office work, (f) taking part of orders.

(3 and 4) Second and third assistant superintendents — male: (a) general supervision of men's department, (b) registering and referring all men, (c) taking some orders, (d) filing records, men's department, (e) preparation of daily report.

(5) Stenographer — female: (a) stenographic work, (b) care of ledger and correspondence files, (c) answer telephones.

There should be at least four additional clerks, so that work could be arranged as follows:

(1) Superintendent: (a) general supervision, (b) prepare publicity and advertising, (c) visit employers, (d) assist in any department only in case of special rush.

(2) Assistant superintendent — female: (a) supervision, women's department; (b) register female office and factory workers, (c) visit employers.

(3) Assistant superintendent — male: (a) supervision of men's department, (b) register and refer general applicants except those hereafter mentioned, (c) visit factories, etc., primarily to learn about trades and occupations.

(4) Assistant superintendent — male: (a) assistant in men's department, (b) register and refer applicants for metal, clothing and leather trades, (c) file records in men's department, (d) prepare male department daily report, (e) visit employers.

(5) Assistant superintendent — male: (a) register, refer and take all orders for agricultural workers.

(6) Assistant superintendent — female: (a) assist in women's department, (b) register and refer all domestics and hotel help, (c) file records in women's department, (d) prepare female department daily report.

(7) Stenographer; (a) stenographic work, (b) care of ledger and correspondence files, (c) answer telephones.

(8) Juvenile supervisor — female: (a) charge of department for juveniles, (b) register and refer all juveniles, (c) file records. This clerk should be familiar with vocational guidance plans and able to co-operate with educational authorities; preferably a teacher or one who has had experience in handling children.

(9) Messenger: (a) do general cleaning, (b) look after supplies, (c) go for applicants needed in emergency.

This office has endeavored to co-operate with other offices and such organizations and individuals as are interested in the problem. The experience of the past year has unquestionably shown

the need of a state system of intercommunicating employment offices. Frequently requests have been received for highly skilled workers whom it was often impossible to obtain locally. Employers have recognized this feature of the Bureau and often ask the Bureau to communicate with other branches.

A short time ago a call was received by long distance telephone for a textile operator of certain skill. The employer asked us to communicate with Buffalo where men of this class might be found. At his expense we telegraphed Buffalo and found a man who reported to Rochester, and who was at work the second morning after the order was received.

In another case an order was given for a private secretary with mechanical experience and stenographic training, at a salary of \$35 a week. Notice was sent to all branches. Within a short time 32 applications of qualified men had been received at our office.

A local minister received a letter from a Brooklyn plumber who desired to locate in Rochester. The clergyman asked us if we could obtain employment for him. He was advised not to come to Rochester as we already had plumbers for whom we were unable to find work.

The labor unions have approved the work of the local office. In many cases the business agents keep in close touch with us, so that if we have a position open for a union man we can easily obtain one by telephoning the union headquarters. Furthermore, the office has been able to place union men in factories which were not in the habit of calling on the business agent.

The Y. W. C. A. furnishes rooms to girls. In this connection the secretary often comes in contact with unemployed women whom she refers to us. We have secured and placed many good applicants in this manner.

The general sentiment in Rochester is very favorable to the Public Employment Bureau. It is endorsed by the clergy, social workers, business men and citizens in general.

Parents and teachers are gradually coming to realize that the Public Employment Bureau is a source of accurate information regarding opportunities in different occupations. As a result, the members of the staff are frequently consulted by boys and

girls who are trying to decide on their future occupations. Hence, the one phase of the Bureau which is going to be of greatest value to the community is vocational direction.

Two meetings of members of the graduating classes were recently held by the city education department; one for boys and the other for girls. At both sessions a representative of this office was invited to address the children regarding the different vocations. When the meeting for boys opened it was found that over thirty of the fifty or more boys present desired to leave school and go to work. After the Employment Bureau official had explained the value of education and opportunities for technically trained men, it was found that only five desired to go to work. This illustrates the constructive value of the Employment Bureau.

HARRY C. TAYLOR,
Superintendent.

(E) BUFFALO OFFICE

To the Director:

I respectfully submit the following report of the work up to date of the Buffalo branch of the Bureau of Employment:

The Buffalo branch of the State Public Employment Bureau is gradually becoming an important factor among the public institutions of the city. This is evidenced by the fact that such organizations as the Chamber of Commerce, Y. M. C. A., Y. W. C. A., Charity Organization Society and churches of the city recognize it to be a clearing house for the unemployed and refer applicants to the Bureau. Also by the fact that the office has shown a gradual increase in business.

While there are some industries in Buffalo employing highly skilled and proficient workers, by far the greater number of employers use principally unskilled and semi-skilled labor. It naturally follows that most of the applicants to the Bureau are of the same class, although the office has been able to secure positions for a great many skilled men.

A manufacturing chemist was in need of a first-class salesman, and failing to get one through the newspapers, applied at the Employment Office and was immediately put in touch with a

man, who has since proven satisfactory, and receives a salary of \$135 per month and expenses. This is one instance of the value of a Public Employment Bureau in connecting the man with the position. Another is the fact that it is a daily occurrence to have an employer call for a man of certain qualifications, and to have an applicant who will exactly fill the bill apply for work at the same time.

In the women's department there is always a great demand for domestics. In fact, far greater than the supply, and almost any applicant trained in general housework is sure to be placed in a respectable family at good wages, without the usual fee charged by private bureaus.

It has been a great help to some of the firms who called on us for typists to help in their advertising department, during rush seasons, to be furnished with workers on very short notice.

Hotels and restaurants, both in and out of city, have been supplied with help, and invariably have been satisfied with the service.

Quite a few of the manufacturing concerns in the city have secured office help — stenographers, bookkeepers, cashiers, telephone operators, etc., and factories, too, find the office an accommodation.

The Bureau helps employers in selecting suitable applicants for positions. As an example, a personal visit was made to a hotel manager to explain the work of the Bureau. During the visit, he said he was in need of a young boy to attend the switchboard and do other clerical work, but found it very difficult to keep a boy on the job. After learning the details of the position, the visitor suggested a girl for the place, to which the manager agreed, and that same afternoon the Bureau sent an applicant who started to work the following morning. The applicant reported that she is well pleased with the position, and the employer is now one of our steady clients.

The Bureau not only helps the business people, but also the housewife to secure good, competent help by assuming the responsibility of supplying them.

The office is constantly in touch with the public schools, striving to be of service to the boy and girl when leaving school, by

ascertaining their characteristics and helping them to choose a calling for which they are fitted.

One of the most interesting features of the work during 1915 was securing the release on parole of several inmates of state corrective institutions, and securing positions for them. Only after explaining fully to the prospective employer all the facts in connection with the past history of the subjects are they sent to a position. It is a source of gratification to know that at the time of this writing they are making good.

While most of the business done is in the City of Buffalo, the office aims to extend its service to all the counties west of Rochester. Already Niagara Falls, Dunkirk and Olean have called for help and the Bureau has been able to send men who were subsequently employed.

Beginning about in April, farmhands were sent out in great numbers. The farmers find it convenient to telephone or write their orders, which are given prompt attention. Especially was this true during the fruit harvest season in Niagara County, when fruit pickers were needed in great numbers and quickly.

While the office is well located, being within two blocks of Main street, Buffalo is so large in area that a branch in the Polish section, and one in the Black Rock section, are necessary properly to serve the whole city.

G. P. BERNER,
Superintendent.

(F) ALBANY OFFICE

To the Director:

Allow me to submit the following report of the work of the Albany branch of the Bureau of Employment up to this date.

The conditions of the employment market in the vicinity of the Albany office are perhaps different from those of most other cities in the state. Albany, primarily a professional and residential city of 120,000, is the center of an industrial district of 350,000 people. As a capital city, it houses all the state departments with all their clerical help. It is also a railroad city. There are the main offices of two railroads, and in nearby cities are their repair shops. It surpasses all the nearby cities in professional, clerical

and financial business, but falls far below in manufacturing. Printing, collars and shirts and railroad repairs are the principal industries.

Just across the river is the city of Rensselaer, with 12,000 people. The main industries are locomotive repairs, a woolen mill and a chemical and dye company. Watervliet, a small city of about 15,000, is practically contiguous with Albany, and four miles north. Its main industries are the railroad repair shop of the Delaware and Hudson Railroad Company, and the United States Arsenal; also a malleable iron foundry. Between Watervliet and Troy there is the small village of Green Island, with its numerous plants of metal and machinery industries. Troy, on the opposite side of the river, six miles north of Albany, has about 80,000 people, and is noted for its shirt and collar industries. It also has a large iron plant and two large stove manufactories. Cohoes, which is about eight miles north of Albany, just above Watervliet, is a manufacturing city of 25,000 people, having many large textile mills. Schenectady, northwest of Albany (the city lines about five miles apart), has a population of 85,000, having the plant of the General Electric Company, with its 20,000 employees, and the American Locomotive Works, with about 4,000 employees.

It is clearly seen, therefore, that the immediate section of this office is diverse and much scattered and consists of several units not easily reached. Thus far, we have been able to canvass all the hotels, building contractors, manufacturing, mercantile and office establishments in the city of Albany. We have also been able to make calls in Rensselaer and Watervliet. The other cities, we have only been able to reach by mail and answering advertisements. We have perhaps been useful mostly to the metal and machinery manufacturers, shirt and collar industry, and hotel and restaurant business. The reason we have been called upon to furnish help to this first mentioned industry is because of the shortage of that special kind of help at present. In the shirt and collar industry, the same reason prevails. In one instance a manufacturer called us up, asking for some experienced female help on shirts. We asked if he was going to advertise and he stated he would not, as too much "riff-raff" answered his advertise-

ments. The next morning we were able to furnish him the necessary help, which he later informed us was very satisfactory and the best he had been able to engage for some time. We were able to furnish considerable help to the D. & H. R. R. Co. for their repair shops at Watervliet. It has been our experience that very large plants will not use the Bureau, except in emergencies. Nearly all maintain an employment bureau with a man in charge at all times who hires for all departments.

In our visits to employers we have had but three cases where an employer would not co-operate with this Bureau in any way. Most all appreciate the call and promise to make use of our services. It has so happened during the last year that on account of business depression, many of the local firms were laying off or running short time, so many orders were not received on our calls. However, in such cases, we always requested the employer to send us all the employees he happens to lay off or any applicants for help that might apply at his office; in other words, we inform him that our office can furnish any help they may want or can use any good reliable help that they may lay off.

We have had the co-operation of the Albany Chamber of Commerce, Society of Associated Charities, Y. M. C. A., Y. W. C. A., and the employment bureau of the Department of Agriculture. We have also learned from experience that whenever we come in touch with a public official or a prominent citizen, we have received more requests to find jobs for their friends than requests to furnish help. We are on friendly terms with all the labor unions. We have not been as successful in the building trades as we would have wished, on account of being unable to educate contractors up to the fact that we can furnish them with union help of all kinds. However, we are making headway on this phase of our work.

It seems from the above mentioned facts that we have not covered our immediate territory as much as would be desired. Our present force consists of the Superintendent, two assistants, and a file and stenographic clerk — four in all. In order to canvass thoroughly the cities of Troy and Schenectady, it would be necessary for someone to take a whole day off and that has not been possible. A short trip to the various parts of the city of Albany

or Rensselaer or Watervliet could be easily made in a couple of hours or a half day, but such time cannot be taken up for that work but once or twice a week. We have found it always necessary that the whole force be here during the morning each day, and when one is absent on account of vacation or sickness, the immediate office work piles up. Therefore, in order that we cover our territory thoroughly and so serve the public best, it seems that a male assistant is needed in this office. Each member of the office force has his or her daily work to perform. However, at times all have been called on to do the work of other departments of the office than their own. In this way, the force has become experienced in all the branches of the employment office work, and the work has gone on without interruption or delay when one or more of the office force has been absent.

Perhaps the Farm Labor Bureau of the Department of Agriculture has been of the most help to us. We have had a great many requests from them for farm hands, while, on the other hand, they have sent us good applicants that we were very glad to get.

We have used three methods in handling help for farmers. In some instances, the farmer calls at this office and picks out his help from those present, taking the help along with him to his farm. Sometimes he writes or telephones and arranges for an interview with several applicants at some future date. In such cases, we endeavor to find out exactly what the farmer wants and the conditions of the work. In that way, we are able to have two or three applicants ready for the interview. The third way is — the farmer writes for help. He is at some distance from the office and is unable to come in. Usually, his letter does not give all the information, and we must write for details as to nationality, age and experience of man wanted, size of farm, number of cows, etc., and whether he will pay transportation. If so, we suggest that he send a ticket. We prefer a ticket, for then we are not troubled with handling cash. After getting a full description of the help wanted and other details, we immediately endeavor to select a man who will fit the job. We have often found it difficult to make the right choice, but feel that in most instances we picked good reliable men who "made good" and proved satis-

factory to the farmer. The second method is preferable, since then the farmer and the farm hand meet each other and all details can be settled.

We believe that our office has succeeded in cutting down the business of the private agencies in this city. One office has gone out of business, and a woman who ran an exclusive private agency was not doing any business and requested information as to her chance for a position with this Bureau. Applicants report to us that there are no places available of any kind at the private agencies, and employers also come to us saying that they cannot get satisfactory help from these same offices.

We have endeavored to protect our applicants and prevent their accepting work in undesirable places. Recently, we had a call for help from a road house which did not appear to us to be a good place. On inquiry at police headquarters, we found that the name of the place was not good. We excused ourselves to the employer by saying we could not find any help to go to his place.

In several instances, we endeavored to prepare for future demands for certain kinds of labor. During the late spring, we addressed a letter to all the prominent hotels and boarding houses in the Adirondack and Catskill sections, stating we would be able to furnish them with any help they might need when the season opened about the middle of June. In the same way, we addressed letters to the hop growers throughout the Schoharie hop growing district. During the early fall, we learned from two manufacturing plants that they would need in the near future machinists and machine hands. We were able to get in touch with a great many of our machinists (although most of them were at work) and machine hands, and so have been able partially to meet the demands of these two shops. Just previous to the holiday season, we visited or addressed a letter to all the large stores, stating that we would be able to furnish them with needed help during their rush season. In this instance also we made many satisfactory placements. Just recently, we visited, telephoned or wrote all the ice dealers in the immediate vicinity of Albany, stating we could supply them with harvesters. We have been successful in receiving several orders already for this class of help. In fact, in all of the above cases we obtained results.

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The work of the women's department has gradually increased, particularly the calls for help, until now there is always on hand a greater number of openings than applicants. Albany is noted for its shortage of female help of all kinds. This is true in domestic help and factory hands. As yet, we have not succeeded in inducing any housekeepers to take on male help. On the other hand, we have not found very many men who are desirable for or experienced in that kind of work. We have been successful in bringing factory hands from other cities to work in plants in Albany, and have practically satisfied all demands for this class of help. If we can successfully fill the future needs of Albany manufacturers as to female factory help, we will have filled a long-felt want in Albany.

Our office is on the street level, a good corner building, centrally located, and a short block from the main shopping district of the city. We take pride in keeping our rooms neat, clean and in a business-like way. Heat, light and janitor service are furnished and daily our rooms are cleaned and the floors washed. We have chairs in our men's department, which is not the usual thing in other offices. The deportment of the male applicants has been very good. All remove their hats, there is no loud or boisterous talking, no spitting on the floor or smoking, nor do we have any trouble in stopping them from using the office as a lounging place. Each morning and each afternoon, after the openings have been announced, the men leave the office and do not lounge around or read the papers. In our women's room we permit applicants to wait. We have placed a large mahogany reading table in the room on which there is reading material. We have found this table very convenient also for interviews between housekeepers and applicants.

Our service could be improved and work lessened, if telephone extensions were made to the men's registration desk and the women's registration desk. Also, it would be desirable to have a booth. Very often orders that come in over the 'phone are overheard by applicants who sometimes go to the place without being sent by us. Our office being on the street level and at a junction of noisy thoroughfares, we are unable to get messages distinctly

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unless the parties on the other end talk quite loudly. Street signs and window lettering are needed.

Oftentimes we are given transportation from employers for help in the form of cash, check or ticket. As stated before, we prefer a ticket. However, in order that there may be no misunderstanding between the employer and this office, we keep a complete record of such transactions and acknowledge the receipt by letter of any ticket, check or cash sent in. Our office records show the name of employer, date received, amount of check, ticket or cash, destination, date used and by whom used. In shipping applicants in such cases, unless they are known personally, we accompany them to the depot, check the baggage, giving the applicant the railroad ticket, and keeping the baggage check, which is mailed to the employer.

The office has been open every day, with the exception of Christmas and New Year's, and we have also had it open Saturday afternoons and Sunday mornings to accommodate employers. From our experience, it seems desirable that the office be kept open a short period, one or two evenings during the week. The reason for this is that many mechanics now engaged at work, other than their own, would find time to come in and register; also, those who are seeking to change their occupation. We find that often an employer will ask, "Where is the man working now?" it appearing that the man at work has a better chance than the man out of a job. Also, oftentimes we are unable to get hold of first-class mechanics and so cannot succeed in filling some good orders. However, this would be a man's work rather than that of any of our women clerks. If there was an extra male clerk, we could try out such a plan. We have also experienced the need of an interpreter of Italian and Polish. We have been able to get along by finding someone among the applicants who could speak one of the languages. If we, however, had an interpreter, we could gain the confidence of and register many applicants of these nationalities. Italians especially are desirable for street labor and state road work, while the Poles are much in demand for heavy factory labor, foundry workers and machine operators. In several instances where these nationalities have been requested, I have visited the Italian or Polish districts and have induced some

of the people to come to the office. The presence of someone able to speak these languages would have led to much greater success in filling orders.

The full details of how we have carried on the work and how we have succeeded in co-operating with the other offices in the state, would make this report too long. We have been growing in experience and popularity and are making new friends each day. We have the basis on which to build the belief that the coming year will be successful and that we can be of great service to the industries and workers of our district.

DANIEL A. HAUSMANN,
Superintendent.

Part VII
REPORT OF BUREAU OF INDUSTRIES AND
IMMIGRATION

[321]

REPORT OF CHIEF INVESTIGATOR
(IN CHARGE OF THE BUREAU OF INDUSTRIES AND IMMIGRATION)

To the Industrial Commission:

I have the honor to submit the report of the Bureau of Industries and Immigration for the fiscal year ended September 30, 1915.

In order to correct an erroneous impression that has been disseminated and accepted by those unfamiliar with either the four previous annual reports of the Bureau or with the scope of its work, it is desirable to state that *the activities, as provided in the statute, concern chiefly the welfare of the alien population now resident within the state*, and the problem of enhancing the social and economic value of these alien communities to the state.

The Bureau of Industries and Immigration is not invested with jurisdiction over either the admission or exclusion of aliens, but was created by the legislature to *protect, direct and assist* those aliens "arriving and being within the state" and making their permanent residence here *in order that they may become an asset to the state*. The fact cannot be disregarded that the large immigrant population in New York is an important economic factor that if protected becomes an asset, if neglected a liability; and as our native-born children are educated at the expense of the state, so these immigrants, who come to our country with high hopes and pioneer courage, must be educated and trained according to our traditions and directed into our customs and standards of living *for the same economic reasons that these advantages are conferred upon our own minors and illiterates*. Each alien resident, therefore, as he becomes a better producer and consumer, contributes his constantly increasing quota of indirect taxation to the state. In the United States it is conceded that workmen are unit for unit more effective because of the public school system.

New York has an estimated alien population of 3,000,000 which is so closely allied to its industrial, educational, health and social

welfare that the task of regulating the huge problem is a difficult one. In the year 1914 there were admitted to destinations within the state 344,663 immigrants, and during the four preceding years New York received about one-third of the total immigration, or over one-quarter of a million immigrants for permanent residence each year. Although the year 1915 shows a decrease of about 900,000 incoming, the proportion of this number remaining in the state remains the same; the 1915 report of the Commissioner General of Immigration announces 326,700 arrivals, 95,028 of whom indicated New York State to be their intended future residence.

Thus the number of immigrants arriving at the port of New York during this abnormal period of the world war continues to exceed the earlier immigration, and the predominating number of non-English speaking aliens has vastly increased the problems of protection, distribution and assimilation.

Unless the state provides an agency where immigrants may present their complaints when they have been exploited, defrauded or mistreated, our foreign speaking residents are driven into colonies where they are deceived by their own countrymen and where they never hear the English language. Aliens have come to this Bureau for assistance who, after a residence of twenty-seven years in the country, did not understand one word of English, but whose children had been educated in our schools; such foreign-speaking parents naturally retard the Americanization of their children.

Much has been said and is being written about the elimination of the hyphen and the naturalization of the alien, but little attention has been given *by the state* to the preparation of that alien for citizenship. The elimination of the hyphenated American is as certain a guarantee of preparedness to the state as is the maintenance of a regular army.

"How to obtain your first papers" should be taught and understood in the English language. What folly to advocate such instruction to an alien in a foreign tongue! It is a necessity and a duty for the state to assist in the process of the amalgamation of its alien population and to thus accelerate the development of an American type. This can be assisted *by a thorough preparation for naturalization*. The English nation developed a British

type and England did not become a conquering nation on land and sea until she had developed a pure British type. How much more necessary therefore must education and supervision be to a country where the immigration problem reaches the proportions attained not only in the nation but in the State of New York.

If this proposition is a correct one, if the United States expects to move until it develops an American type, then exclusion should be enforced as long as the accession of the alien born exceeds the native born, otherwise we are clearly moving away from an American type and increasing the national problem of a heterogeneous population. At present we find that less than 50 per cent of our alien population who have been in the country over ten years are naturalized; and only about 35 per cent of those who are here under ten years.

The Bureau has co-operated with all Federal, state and municipal departments, *and is doing work ranking second in importance to none in this state.* This work has increased 600 per cent in the five years of its existence, and it may be considered the clearing house for information to immigrants in the country at large. During the past year requests for advice and information were received from every state in the Union except four.

The present staff consists of nine investigators speaking eighteen languages and various dialects, *an entirely inadequate equipment to handle this great problem, bound up in which is the consideration of practically every important question with which the state is confronted* and including enormous possibilities for good or evil, for economic gain or loss within the next decade. The economic value of an illiterate, unskilled alien laborer to the state has been estimated to be \$100 per year; to a literate alien \$100 additional value is conceded; and this value increases as his producing and consuming powers are enlarged and decreases as he becomes an unemployed or unemployable factor in our economic system.

Who can doubt, therefore, the wisdom of a state policy that seeks to increase the earning capacity, efficiency, patriotism and economic value of its alien population, when to neglect this problem means added dependency, unemployment, a drifting, incompetent contribution to posterity and an extra financial burden on the

state. Can any more forcible argument be propounded in favor of a state supervision of its immigrant population?

At the present time our industries could not be carried on without the immigrant laborer. He predominates in steel industries, subways, tunnels and highways; in fact, the immigrant does practically all of the common work of the nation. In high power industries the alien laborer receives five times the amount per day that he would be paid in Europe; hence there is an additional reason for educating him into an appreciation of the advantages of a higher standard of living. The civilization of a republic does not necessarily rely on the perennial exploitation of helplessness.

The swindling activities directed against immigrants extend in a descending scale from great corporations to ex-convict petty larceny thieves who skulk about the Barge Office seeking to steal a dime; and from the bogus doctor, with a string of offices and an income of \$45,000 a month, collected through an organized gang of foreign-speaking "assistants," to the labor agent, who charges a \$25 fee and ships him to some distant point where there is no work, and from where he must walk back from 20 to 100 miles or starve.

GENERAL SURVEY

The fact that immigration has decreased 75 per cent in the year 1915 has not been apparent in the operation of the Bureau, and is only noticeable in our statistics by a slight decrease in the number of complaints received, which was 4,601 in 1915 as against 6,053 in 1914. This unimportant reduction, however, provided an opportunity to more adequately cover the work of investigation, which has increased from 6,551 cases in 1914 to 7,528 in 1915. Of complaints, 2,357 involved violations of law and 2,244 required advice and information. Of the 7,528 inspections, 2,160 were case work, 325 re-investigations, immigrant lodging places 1,424, docks and ferries 1,270, labor camps 824, steamship ticket agencies 424, railroad terminals 336, employment agencies 271, immigrant homes 271, miscellaneous 145, evening schools for immigrants 56, banks 11, porters 4, interpreters 3, notaries 2, runners 2. Letters written and received numbered 5,828;

office conferences numbered 1,081, and miscellaneous action was taken in 651 cases.

Of the 4,601 complaints received 2,442 cases were amicably settled, 775 referred to public authorities, 988 referred to private agencies, 231 were money settlements involving \$4,747.83 collected for complainants, and 165 cases are still pending.

There were 202 immigrant lodging house licenses issued for which \$1,725 in fees was collected and 2,822 rate cards distributed.

The 824 labor camp inspections involved the living conditions of 37,807 employees, of which 18,697 were aliens. These inspections are classified as follows: canneries, 379; brickyards, 180; highways, 138; railroads, 54; quarries, 47; mines, 10; fertilizers, 6; miscellaneous, 5; barge canal, 3, and aqueducts, 2.

Camp schedules numbering 327 were referred to the State Department of Education with information concerning locations where it was advisable that camp schools should be established, involving the condition of 30,323 aliens of nineteen nationalities, namely, Austrian, American (colored), Croatian, French, Greek, German, Hungarian, Bulgarian, Italian, Irish, Polish, Portuguese, Russian, Roumanian, Slav, Syrian, Spanish, Servian and Turkish.

COMPARATIVE NUMBER OF EMPLOYEES AND ALIENS OF THE 824 LABOR CAMPS INVESTIGATED

	Number of camps	Greatest number of employees	Number of aliens	Percentage of aliens
Aqueducts.....	2	1,895	810	43
Highways.....	138	7,534	4,614	61
Mines and quarries.....	57	6,508	3,860	60
Canneries.....	379	8,547	3,701	43
Brickyards.....	180	10,709	4,122	38
Barge canal.....	3	322	64	19
Railroads.....	54	1,074	739	68
Fertiliser plants.....	6	1,895	810	42
Miscellaneous (aluminum, disposal, cold storage and paper mill).....	5	1,040	560	53
Total.....	824	37,983	18,679	50

RAILROAD TRANSPORTATION

In the matter of third-class prepaid railroad orders issued abroad and referred to in the 1914 report, it may be stated that the railroad committee of the steamship lines has agreed to discontinue the sale of prepaid third-class railroad orders *to second-class steamship passengers*, thus abolishing, through the efforts of this Bureau, a practice that entailed expense and inconvenience to alien second-class passengers. The methods employed by trans-Atlantic steamship companies in routing railroad passengers holding prepaid orders is to be deplored, and passengers who purchase railroad orders in connection with their steamship tickets through the solicitation and misrepresentation of steamship ticket agents abroad, are still suffering inconvenience and hardship. It is to be hoped that an early adjustment of these matters may correct these evil conditions. The present system of routing passengers who hold prepaid railroad transportation is arranged by "pooling" the railroads, and centralization of control is thus vested in the steamship organizations whose agents violate the rights of passengers by this form of discrimination. The only logical way to correct this abuse is to discontinue the sale of all prepaid railway orders by steamship ticket agents abroad, but even a modification of this arrangement with the pooling system eliminated would accomplish a vast improvement in existing conditions.

The fact that a steamship company sells prepaid railroad transportation to second-class passengers through a commercial agreement with the trunk line railroads, and after arbitrarily routing these passengers abandons them to the mercy of the horde of hotel runners, public porters or other ill-regulated persons who are lying in wait to defraud them, is an unpardonable imposition and injustice to these passengers. The steamship company disclaims any responsibility for the safety of its passenger *after leaving the steamer*, but since it has sold him his railway ticket and arbitrarily decided for him over which road he shall travel, *why should it or the railroad over which he is compelled to travel not assume responsibility for his safe delivery to that railroad and to his train?* A piece of baggage which is prepaid *is delivered to the railroad and to the train*. There is every reason to demand

that either the railroad or the steamship company *should assume responsibility for the safety of prepaid passengers until they reach their destination*. If this plan were carried out there might ultimately be some logical reason for issuing prepaid railroad orders in connection with steamship transportation, and indeed with some additional concomitants this lucrative form of transportation might very well develop into a system that might actually be commended. As conditions exist at present, the steamship passenger *who does pay and is willing to pay for what is represented to be advantageous to him*, is, on the contrary, obliged to endure untold hardships before completing his journey, as a result of having been persuaded to purchase prepaid railroad transportation.

DOCKS AND STEAMERS

General conditions on the docks at present are improved, but still leave much to be desired. It is necessary, however, to obtain the co-operation of both steamship companies and railroads before any genuine reform can take place, and then it can only be accomplished by drastic changes in the present system of handling passengers. There should be:

1. A clearing house established on all docks under jurisdiction of this Bureau;
2. A new system of prepaid railroad orders, first and mixed class;
3. No routing by landing agents;
4. All through passengers holding orders should be routed by clearing house agent according to trains, not railroads;
5. Porter and bus service by railroads from docks to trains;
6. All money changing and baggage charges O. K.'d by clearing house;
7. Bulletin boards for baggage rates, money exchange and time of trains;
8. Daily notification to this Bureau of consignments of passengers taken from docks by immigrant associations, hotels and steamship agents;

9. Daily diagram to this Bureau of steamship-railroad passengers, showing number, destination, train and railroad.

Under these conditions it would be comparatively easy to develop the advantages of New York as a port of entry over Canadian and southern ports by the extension of a service to all steamship passengers of (1) through fast boat trains; (2) guide service, transfer service, tourist service, and (3) protection to final destination.

MONEY EXCHANGE

Exchange of foreign money is being conducted as heretofore by railroad ticket agents, hotel runners, steamship agents, saloons and baggage agents, and incoming passengers are being systematically robbed, as usual. Although the law provides that a license is required for this form of banking, it is not being enforced and anyone may pursue such exploitation of steamship passengers who has the requisite nerve and capital.

BAGGAGE

During the year a conference was held between the Commissioner of Licenses and the Chief Investigator of this Bureau concerning ways and means of abolishing the abuses practiced by baggage agents and enumerated in the last annual report. As a result it was ordered by the Department of Licenses that signs approved by that department stating legal transfer baggage rates be displayed by each express company operating on the docks; that all charges be collected at a desk and that no "checker" be permitted to collect money from a passenger. This has accomplished a much needed reform and as a result few complaints have come to the attention of the Bureau during the past year. Credit should be given to the express companies operating on the docks for their assistance and co-operation in enforcing these rules.

REAL ESTATE SCHEMES

During the business depression of the past year some so-called "real estate" companies operating under pretentious names succeeded in attracting the attention of unemployed aliens by inserting misleading advertisements in the foreign language press and

through various other channels. These announcements promised employment and offered other apparently attractive inducements for the purpose of obtaining the savings of immigrant applicants. This Bureau received and investigated numerous complaints and finally succeeded in closing a number of these offices, obtaining refunds of some of the money deposited, and saving immigrant laborers thousands of dollars. It is worth while to describe the method employed by these impostors to lure ignorant foreigners and obtain money from them.

An alleged "real estate" firm advertised for a time in the foreign language newspapers as follows:

Wanted, men of any profession to work in Cuba. Must be industrious and single. Pay \$4.00 per day. Apply from 9 a. m. to 4 p. m. at the Company, West 23rd street.

This advertisement attracted a number of immigrants who, upon being interviewed by a manager of their own nationality, were told that they could obtain employment in Cuba for four dollars per day, at their own trade; *but that each applicant must deposit \$25 on account of transportation costs, and other expenses.* After paying this deposit the immigrant was asked to sign an agreement printed *in English* which he did not understand, and which contained three stipulations: (1) That the immigrant agreed to buy from the said company ten acres of land in Cuba for \$4,000; (2) that he agreed to enter the employ of the said company with the understanding that each day that he worked in Cuba for and under the direction of the said company a credit of four dollars would be made on account of the four thousand dollar purchase price, less five dollars weekly for board, which included meals, housing and plain laundry "(no starch)," less his fare, expenses and all other advances made for him or in his behalf thereafter or until the said company was ready to notify him to depart for Cuba; and (3) all labor credit would be based only on the report of the company time-keeper.

This "company" obtained money from hundreds of applicants all over the state during the few months of its existence, and continued to give excuses for delay in furnishing applicants with work from day to day.

On receiving complaints from several alien applicants the Bureau's investigation disclosed that the company had an option on some undeveloped property in Cuba, but that they kept no books or accounts of money collected, that they had no bank account, and that all money collected was appropriated by the "president." *Hundreds of foreigners who had signed contracts and had paid fees for obtaining the promised employment were in the city waiting to be shipped.* The "company" did not own their own steamers as they had stated, and in any event the contract would have obliged applicants to labor for more than four years in order to pay up the \$4,000 and become the owners of the "property," the value of which could not exceed a few hundred dollars. It was apparent that the sole object of this "company" was to collect an initial payment from applicants, and that they had never intended to carry out their agreement.

The Bureau succeeded in causing the arrest of the Italian manager, who was later remanded for the higher courts; and also in obtaining the return of money to many of the victims.

Another advertisement appeared in the Italian newspapers for several weeks as follows:

Good way of earning money for carpenters, masons and painters. Write or call from 9 to 12 noon, E. 120th street.

A number of applicants called in reply to this advertisement and were informed by an Italian, that on paying \$5 they would be given a position, guaranteed for one year with a certain "real estate" company having land in New Jersey. Numerous foreigners paid the fee, and were given receipts in English, an example of which appears below:

Tel. Harlem Date
 Received from Mr.
 Address
 Deposit of \$5 on No. of shares.....
 Lots Block No.
 Price \$25.00
 Terms \$. Down, \$2 monthly.
 The Corporation,
 per, General Agent.

Investigation disclosed that this "General Agent" was acting for a certain "real estate" company, having its main office in New York City, which had an option on a tract of land in New

Jersey, comprising several thousand acres in a town of about 150 inhabitants and valued at about \$1.25 per acre. This was offered for sale to applicants for work at the rate of \$25 a quarter-acre lot, or \$100 per acre. This agent had changed his address and office four times during one month and was receiving money from all over the country in reply to his "ad." A warrant for his arrest was applied for and issued, but before it could be executed he had escaped to Italy. One of the circulars distributed broadcast read partly as follows:

Work to be done on property by the company. To be built, 5,000 first class homes and 5,000 workingmen homes. Asphalt streets, 4 large factories, 2 large railroad stations, 2 churches, 2 schools, 2 large hotels electric trolley cars, etc., etc. I need 500 workingmen to earn from \$2 to \$5 per day. Only people having shares in the company will be employed.

PUBLIC PORTERS

There are about 225 licensed public porters in the city of New York, and as stated in the 1914 report of the Bureau the only controlling ordinance regulating their activities is seventy years old and entirely obsolete. It is regrettable that the efforts of this Bureau, together with representatives of the Hotel Men's Association, of the various railroads having terminals in this city, and of the Department of Licenses were ineffectual in obtaining the passage of the new ordinance submitted to the late Board of Aldermen in 1915.

The operations of these porters, the majority of whom have police records, are a public scandal, and the records of complaints and evidence of illegal traffic obtained by this Bureau and the Hotel Men's Association from hotel patrons, whom they solicit, overcharge and misdirect, are voluminous.

Practically all porters act as guides and solicit patronage for hotels and are doing a regular "runner's" business. While runners licensed by the Police Department pay a \$20 license fee and are under bond, porters pay \$1 for the first year and 25 cents for a renewal, are under no bond or obligation and there is practically no system of identification. Evidence is abundant that they continually insult women passengers, and any morning at the Pennsylvania Railroad depot they may be seen forcibly

taking bags from passengers and compelling the acceptance of their services.

Many porters, after having been convicted and released from prison, have obtained licenses under assumed names and when original licenses were revoked, others were secured in this manner. One man was found to have used four different names and obtained a new license on each occasion.

The activities of public porters are unfortunately *not* regulated so that they can be compelled to confine their efforts to the sort of work for which they are licensed. Most of them are regularly employed on a commission basis by second-class hotels for independent soliciting and their official licenses are used as a shield to cover innumerable deceptions and abuses. Reports of investigators disclose such cases as the following:

During a recent inspection at the Grand Central Terminal a certain ex-convict was observed standing in front of the terminal wearing a cap with the inscription "steamship, hotel and railroad guide." His record is as follows. In 1910, he operated at the Barge Office under public porter license No. 123. Several complaints of exploitation of immigrants came to the attention of this bureau, but no conviction was obtained, as complainants had left the city. In January, 1912, he and another porter were arrested and entered a plea of guilty before the Court of General Sessions for having induced two immigrant girls to go to their room under the promise of obtaining positions for them; they kept the girls there for three days. They were sentenced on January 28, 1912, to the Elmira Reformatory and their licenses revoked. In June, 1914, one of them applied for a new porter's license under an assumed name. He was identified and the license was revoked. On the evening of October 8, 1914, he was observed again acting as a public porter, and since that time has been twice arrested for vagrancy.

Porter P. N. met a Polish immigrant at the Pennsylvania Terminal. He promised to obtain a position for the immigrant and induced him to go to a hotel where he robbed him of \$20. N. has served three months for unlawful entry.

Porter S. W. served a three months sentence for robbing immigrants. His porter's license No. 356 was revoked in 1910. He secured a hackman's license and operated at the Grand Central Terminal, although he never owned or drove a hack. He gave this license to a newsboy for 25 cents, and for some time operated without one. The License Bureau was notified and this license was revoked. He then proceeded to a branch office of the License Bureau and obtained another hackman's license, and thereafter operated without a license at the Pennsylvania Terminal by using baggage checks of one of the bogus "express" companies common in that vicinity.

Porter F. L. was arrested for stealing immigrant's baggage at the Barge Office. He and another public porter obtained \$21 to purchase a railroad ticket which was never obtained. He is suspected of having taken another immigrant to a restaurant on 116th street, where he robbed him of \$2. He has not appeared at the Barge Office since the robbery.

Porter J. B. was arrested for robbing a Greek immigrant boy of \$22 for a ticket to White Plains. He pleaded guilty and was convicted.

Porter J. S., No. 2, charged an immigrant \$6 for guiding him from the Barge Office to the Brooklyn Bridge. He left the city when he learned that the immigrant had complained.

Porter P. R. took an Armenian to the subway station and there demanded money to purchase tickets. The passenger gave him a 20 franc piece and he asked for more. He was given 80 francs additional, in all 100 francs. In return R. gave him a \$1 bill, telling the Armenian that this was a check. He was convicted.

J. D. K. was licensed in 1914 as a runner by the Police Department and operated at the Grand Central Terminal. He was a hack driver before he obtained a runner's license. On February 23, he was arrested for disorderly conduct and placed on probation for twelve months. On April 18, 1912, he was arrested for disorderly conduct and fined one dollar. On March 7, 1913, he was arrested for disorderly conduct and fined two dollars. February 13, 1913, he was arrested, reprimanded and discharged.

The record and character of one "Toney Natilie," a former hack driver and public porter, who has since applied for a runner's license, is as follows: On October 15, 1912, he was arrested for disorderly conduct and fined one dollar. December 12, 1912, was arrested for operating as a porter without a license at the Grand Central Terminal. February 17, 1913, he was arrested at the Grand Central Terminal, charged with disorderly conduct and fined ten dollars. August 26, 1913, he was arrested for violating the corporation ordinance, was reprimanded and discharged. On March 26, 1914, he was arrested for assault and sent to the workhouse for thirty days.

Porter J. C. obtained \$30 from an immigrant to buy a railroad ticket to White Plains. He took the money and disappeared. He was arrested, convicted and received a sentence of eleven months and twenty-nine days. Two days after his release, he was discovered obtaining money from an alien on the pretense that he was an immigrant official and that he would obtain the release of another immigrant detained on Ellis Island. He was convicted and sentenced to one year in state prison. Three weeks after his release from prison he was arrested, charged with stealing \$80. He was again convicted and sentenced to one year in state prison.

PORTERS AT RAILROAD TERMINALS

A survey of conditions at the Grand Central discloses from 65 to 75 public porters and public runners constantly operating outside of this terminal and in and around the two blocks from Fourth to Madison avenues. During a recent inspection, 18 pub-

lic porters were observed at one time standing at the northeast corner of Madison avenue at the subway exit.

These disorderly and unrestrained "porters" are thus authorized to annoy passengers and obstruct the sidewalks about both the Grand Central and Pennsylvania Terminals, and the private police of these railroads are largely employed in protecting incoming strangers from their activities. The police records of both of these railroads are largely composed of such complaints. But the fact remains that acting under license and authority of the city of New York and in defiance of the rights of property owners and business interests, 200 so-called "porters," a floating, lazy, incompetent class of men, seek this sort of livelihood because they will not work and they should not be encouraged by authority of the municipality.

A public porter license grants to the holder the privilege of accosting strangers, both citizens and aliens, coming into the city who unwittingly fall a prey to their infamous and illegal methods. It is imperative that the Board of Aldermen give attention to the request of the organizations and departments interested in abolishing these scandalous conditions, or, preferably, that the charter be amended to place public porters with runners under proper restraint.

BOGUS MEDICAL PRACTITIONERS

During the year 1914, this Bureau began a campaign of extermination against bogus doctors and medical "museums." Chief Magistrate McAdoo issued 57 warrants against persons charged with violation of the Public Health Law and with maintaining these public nuisances on evidence obtained by this Bureau and the County Medical Society. All of the defendants were convicted with the exception of one who is now a fugitive from justice. Some of the worst offenders were sent to jail and fines were imposed upon others of from \$100 to \$500, and in a few cases sentence was suspended.

For many years so-called medical "museums" have been conducted in the city of New York. They were simply places which ignorant foreigners were induced to enter to be robbed of their savings. As a result of the work of our investigators with the

co-operation of the County Medical Society and the District Attorney's office, these museums no longer exist, and the aliens in the community have been protected against a great swindle. Investigations conducted by the Bureau show that these museums and their so-called "doctors" obtained many thousands of dollars weekly defrauding foreigners. The proprietor of one of the larger offices stated that unless the profits averaged \$4,000 a month it would be closed. One of the worst offenders was a man named Henry J. Schireson. This man conducted offices in Boston, Mass., Scranton, Pa., Wilkes Barre, Pa., Johnstown, Pa., Susquehanna, Pa., Philadelphia Pa., Youngstown, Pa., Shenandoah, Pa., Providence, R. I., Cleveland, O., Detroit, Mich., and Pittsburgh, Pa. His income was estimated to be about \$100,000 a year and his record was a thoroughly bad one. He had been in trouble with the authorities in almost every city where he had conducted his business. He was admitted to practice in the State of Vermont in the year 1909 and after obtaining his certificate in that state went to Ohio and was admitted there and in other states by reciprocity, where he was licensed to practice medicine by the endorsement of his Vermont license. Investigations conducted by this Bureau disclosed that Schireson had employed some other person to take the original examination for him, and that after the impostor had passed the examination Schireson obtained the certificate. The fraud was subsequently discovered and the Medical Board of the State of Vermont thereafter ruled that all applicants should be required to appear before the Medical Board for examination to be photographed before taking the examination. This man was sentenced to ten months in the state prison in the State of Pennsylvania and after spending a short time in jail he was pardoned. The Bureau received letters from district attorneys and other officials from different parts of the country in reference to Schireson, the following letter being received from the district attorney of Lackawanna County, Pennsylvania:

Your letter of May 20th, inquiring as to Henry J. Schireson, has been received. This man at one time conducted a medical office in this city. As soon as the authorities got after him he left for Pittsburgh, where I believe he was arrested and sentenced. He claimed while here to have a license from the State of Pennsylvania, and he exhibited what at least purported to be a license. Whether it was valid or not, or whether it was obtained

fraudulently or not, I do not know. Schireson had the reputation of conducting a medical office on the following plan: He solicited business among the foreigners of this county. He had several rooms and several assistants. When the foreign patient would come to his office, one of these assistants would have the patient strip off and leave his clothes in a certain room, while "Doctor" Schireson would have the patient step into another room to be examined. While the patient was being examined the assistant would go through the patient's clothes to ascertain how much money he had. Charges were fixed in accordance with the success of the assistant's investigations as to the amount the victim could stand. This was Schireson's reputation. The facts were not brought out at any trial in this county.

The following letter was received from the State Medical Board of Michigan:

In reply to your inquiry of the 18th inst., relative to Dr. Henry Junius Schireson, I will state briefly as follows:

Dr. Schireson obtained a medical license from this board under date of July 3, 1911. We subsequently received official evidence that some of the statements sworn to in his application were false, and his license, therefore, was cancelled by this board at its meeting on October 11, 1911. He, however, did not discontinue his practice in this city, and was arrested by the authorities and convicted for practicing in violation of the Medical Act. He was released under bail, which he afterwards forfeited. Later he was arrested in a Pittsburgh hotel under an assumed name. I enclose you a copy of a newspaper clipping on file in this office, covering his activities in Pittsburgh. You can undoubtedly obtain full information from the officials of that city.

The following letter was received from the office of the District Attorney of the County of Alleghany, Pa.:

In reply to your letter of May 20th, regarding one Henry J. Schireson, beg to state that he was with one J. J. Weitzman arrested in this city in 1912 upon a charge of conspiracy to defraud, based on information secured by this office.

They had opened offices which they called the "Pittsburgh Clinic," fitting the same with a number of machines and devices, by the use of which they represented to persons applying for treatment, that they could diagnose diseases and conditions of the body and blood. They would represent to applicants, who were mostly ignorant foreigners, and who were suffering from slight ailments and disorders, that their condition was serious and that it would require medical treatment with them for a long period of time, by which means they would secure large sums of money.

Schireson and Weitzman both entered pleas of *nolo contendere* to this charge of conspiracy on October 14, 1912. Schireson was sentenced to the Alleghany County Work House on November 9, 1912, for a period of ten months and was released by a pardon on January 15, 1913. Weitzman was sentenced eight months to the same institution. Schireson came here from Detroit and was wanted in that city at the time.

One of the other defendants arrested owned a chain of museums in the city of New York. The amount of money he had obtained from foreigners in these museums was enormous. Evidence disclosed that his profits amounted to several thousand dollars per month. This man was convicted and was compelled to close all of his museums.

Advertisements were inserted in foreign newspapers whereby readers were informed that celebrated "professors" would cure every ill known to humanity and that if a cure was not effected the money would be returned to the patient. The patients were told that celebrated professors, graduates of universities of Europe, were in daily attendance at the museums and doctors' offices, and when a patient interviewed the famous "professor" he was assured that he was suffering from some serious disease, but that he could be cured, provided he followed instructions. As a matter of fact these famous "professors" were simply interpreters and their sole business was to make the victim believe he was suffering from a serious disease that required immediate medical attention, and that if he did not follow this advice, death would result. The files of this Bureau are replete with instances where persons had given all of their savings to these impostors. There is on record a case of two Greek boys who read an advertisement in the Greek newspaper and after going to the office of the doctor or "professor," one of the boys was informed that he was suffering from leprosy. He was informed that it would be necessary for him to call at the doctor's office every day and that the visits should be made at night, because if he was seen on the street in the daytime the authorities would apprehend him and he would be imprisoned. This victim was induced to part with his life's savings. Of course he did not have leprosy, in fact his illness was originally unimportant, but when he called at this Bureau with his brother he was a nervous wreck, and this condition was the result of the treatment given him at the office of the "professor."

As a result the following persons were convicted for violation of the Public Health Law, that is to say, practicing medicine without a license; or of maintaining a public nuisance in that they conducted offices and "museums" wherein persons were defrauded by men who impersonated physicians:

NAME	Result of prosecution
Leonard Landes.....	\$100—30 days
Sidney S. Engleman.....	Suspended
Kugelman.....	Suspended
Dr. William S. Ewing.....	Suspended
Louis Price.....	Dismissed
William Dubbin.....	Dismissed
George Garifolas.....	Six months.
Constantin Lyras.....	\$250—60 days
J. C. Brown.....	\$150—30 days
Victor Brod.....	\$100—30 days
Isadore Hyman.....	Suspended
William B. Hunt.....	Suspended
Julis Jelsick.....	Suspended
John Tulea.....	Suspended
Miss Rose Roberts.....	Suspended
Henry J. Schireson.....	Six months
Gerald Rothman.....	Suspended
G. C. Brown.....	Suspended
Frank T. Brough.....	Suspended
Dr. B. Metz.....	Dismissed
James Flippen.....	\$500
George Moscow.....	Suspended
Milton Sampson.....	Suspended
Thomas L. Ward.....	\$250
Otto C. Buheck.....	\$250
Smiley Blackwood.....	Suspended
Maxwell Branner.....	Suspended
Franklin P. Hannon.....	Suspended
Adolph Slaughter.....	\$500
Charles Noack.....	Suspended
James Von Spiegel.....	Suspended
George I. Idromenos.....	\$150
Nicolas Metaxas.....	\$150
Eftimis Efthimiou.....	Fugitive

The effect of these arrests and prosecutions was an important step in the reformation of conditions which it is desirable to abolish, and to the attorney for the County Medical Society, the Chief Magistrate, the Second Deputy Commissioner of Police, this Bureau is greatly indebted for valuable co-operation and assistance.

Unfortunately there is at present no disciplinary body of the medical profession which can handle complaints and recommend suspension or revocation of license and other summary punishment for unethical practices by members of that profession. Such an organization on the same principle as the Bar Association is not only desirable, but necessary, and steps are already under way to propose such legislation as may be necessary to create such a body.

REPORT OF THE INDUSTRIAL COMMISSION.

The difficulty of obtaining evidence and of offences, together with the prevalence of medical in foreign language papers, attest that some stricture on these matters is necessary.

PHONOGRAPH SWINDLERS

One of the most prolific sources of swindling in aliens is the phonograph mail order business, a highly organized mode of extracting money from immigrants through the medium of the foreign press. Circulars are inserted in various languages, stating that on payment of a certain sum and an agreement to pay the balance in small installments a machine will immediately be forwarded to the purchaser and records of your national songs in your own tongue.

On receiving the initial payment the phonograph company forwards a machine by express with the entire balance collected C. O. D. When the alien is notified by the company he is shocked at the "mistake" and protests at the phonograph concern, with the result that this company refunds the machine and the original payment. The immigrant, less and unfamiliar with either the language or usage of the country, thus loses his hard-earned money and his remains unheeded.

For several years complaints have been received from the United States from immigrants of all nationalities who have been systematically defrauded. An investigation was conducted, complainants were interviewed, and the assistance of the Post-Office Department was enlisted, with the result that complete cases were prepared against one Saul Birns, the chief offender. It was ascertained that his fraudulent netted him about \$125,000 per year and that he had an emergency deposit of \$30,000 to be used for legal expenses when he be arrested. Birns operated three companies, "Birns Company," the "Atlantic Talking Machine Company," and the "Metropolitan Phonograph Company." His machines were played machines selling at from \$10 to \$75, each being in fact mentally the same machine and costing him not more than wholesale. The representative of one company, a

purchased these machines, testified in court that Birns' purchases amounted to \$6,000 per month from this one concern. Birns was finally arrested, indicted and convicted under section 215, U. S. C. C. He first pleaded "not guilty" and afterward changed his plea. He produced a physician in court who testified he was suffering from mastoiditis and that his wife was suffering from another ailment which invariably affects the wives of indicted swindlers. He was fined \$750, an absurdly inadequate punishment for a man whose swindling operations extended from ocean to ocean, and who for years had unscrupulously robbed ignorant and hardworking foreigners to the amount of over \$100,000 per year.

Joseph Kalman, proprietor of the "Adria Phonograph Company," the "Pallas Phonograph Company," and the "Metropolitan Phonograph Company," was convicted under the same section and fined \$100.

Joseph H. Mayers, the proprietor of the "International Phonograph Company" and the "Supreme Music Company," under the same section, was fined \$350. Mr. Mayers was also the president of the "New York Credit Watch and Jewelry Company." Other cases are still pending.

The immigrant and his hard earned pennies are indeed an object of envy of the prolific brains of the organized swindling fraternity!

LABOR CAMPS

The inspection of 824 labor camps during the year developed many improvements and a more general spirit of co-operation among employers than has been indicated in previous years. In canneries, particularly, a general improvement in living quarters was apparent and special mention of the Burt Olney Company and the social conditions in their camps is deserved. This company may well serve as a model to the canning industry. Not only have they destroyed and rebuilt practically all of the old living quarters at the Albion cannery, but have provided teachers to instruct and social workers to care for the children of their alien employees. At the Oneida cannery also, Mr. Olney has not only provided improved quarters, but has given considerable attention to fire protection in the construction of these buildings.

Other canneries deserving special commendation are The Clinton Canning Company, at Clinton, N. Y.; The Daily Udell Company, at Brockport, N. Y.; The Fuller Canning Company, at South Dayton, N. Y.; The Oswego Preserving Company, at Oswego, and the Cobb Canning Company, at Canandaigua, N. Y. All of these maintain practically model camps and demonstrate that such procedure is not inconsistent with profitable and advanced business methods.

In brickyards the conditions remain practically unchanged, and may be said to continue to be the most discreditable in the state.

Railroad camps have improved and have only curtailed installing additional educational advantages because of the exodus of Italian reservists. However, the improvement in many box car camps, notably at Harmon, N. Y., on the New York Central, is extremely gratifying. Photographs in our files are the most convincing evidence that employers are beginning to realize the importance of sanitary housing quarters for laborers, and the type of concrete and shingle camp houses on the New York Central Railroad leaves little to be desired. These houses are gradually taking the place of box cars, formerly used for this purpose, 250 of which were destroyed by the company during the past year.

Camps in other industries have improved proportionately, but to attain the standard that will make for efficiency in our industrial life, an educational campaign for the captains of industry is necessary to create a realization of the fact that efficiency can only be scientifically developed and increased by the conservation of health, energy and increasing intelligence of the industrial army. It has been aptly written that "Europe's next fight * * * will be the fight of all trades against the rapid advance of American business efficiency." *The industrial future of any country rests on its industrial efficiency* and America now has an opportunity unparalleled in history to mobilize her industrial army and to legislate and develop that indispensable quality.

How puny are the efforts of the few old-fashioned employers who seek to curtail the activities of this Bureau, through which the social condition of our immigrant industrial workers is improved and their standard of living raised to that point which develops additional industrial efficiency. A hygienic, educational

and social propaganda makes for personal advancement; *and the efficiency of the worker makes for the prosperity of the employer, not sometimes but always.* Germany is the only country in the world that has reduced industrial efficiency to a science. America, for the next century at least, should be Europe's workshop; and even should immigration remain at a standstill for the next decade, American industries should lose no time in developing their present immigrant population into an efficient, competent industrial army, fit and able to meet the demands that will be made upon it during the coming readjustment and reconstruction period of the remainder of the world.

By the use of judicious periods of enforced rest, it was possible for the Bethlehem Steel Works to get its laborers to lift and move four times as much pig-iron as by setting the laborers a straightaway nine-hour day. Rest, sanitary housing, clean food, industrial hygiene, will raise the standard of living and increase the industrial efficiency of the alien many times over, and the sooner the average employer is educated to see this the state, the laborer and the employer will begin to reap the economic returns of a sound investment.

The state, the corporation and the individual employer owe a moral obligation to the immigrant population. *The welfare of both the state and the employer is bound up in the welfare of the industrial worker.* We cannot ignore one without injuring the other. John Bright, the friend of America, denounced the policy of the empire that would bring misery to the cottage when he said,

I believe that there is no permanent greatness in a nation unless it be based on morality, I care for the condition of the people among whom I live. * * * Palaces, baronial castles, great halls, stately mansions do not make a nation. *The nation in every country dwells in the cottage,* and unless the light of your Constitution can shine there, unless the beauty of your legislation and the excellence of your statesmanship are impressed there on the feelings and condition of the people, rely upon it you have yet to learn the duties of government. * * * The moral law was not written for men alone in their individual character, but it was written as well for nations, and for nations great as this of which we are citizens. If nations reject and deride that moral law there is a penalty which will inevitably follow. It may not come at once, it may not come in our lifetime, but, rely upon it, the great Italian is not a poet only, but a prophet when he says:

The sword of heaven is not in haste to smite,
Nor yet doth linger.

DEFECTIVE ALIENS

The report of the Commissioner General of Immigration with respect to the admission of defective aliens under bond corroborates the statements upon this subject submitted in the last annual report of this Bureau, inasmuch as it illustrates the fact that owing to

the decrease in immigration (particularly through the larger ports, notably New York) has resulted during the past year in especially favorable opportunities for testing aliens for physical and mental defects. The results attained demonstrate the need for greater care and more minute physical and mental examination in connection with the medical inspection. In other words, these results prove conclusively that more doctors are needed if the country is really to be protected from the introduction of diseases and stains of mental deficiency.

It is obvious that the admission of aliens suffering from grave mental and physical defects, particularly the insane, imbecile and feeble-minded who are admitted under bond are a menace to the welfare of the State of New York that cannot be overestimated. This matter is specifically referred to in the 1914 report of the Bureau, but the report of the Commissioner General of Immigration further emphasizes the exigencies of the situation as follows:

During the past fiscal year 463 aliens suffering from serious mental defects were debarred at the ports—6 idiots, 27 imbeciles, 98 insane, 30 epileptics, and 302 feeble-minded. In the preceding year 1,274 aliens with serious mental defects were debarred, of whom 14 were idiots, 172 insane, 68 imbeciles, 25 epileptics, and 995 feeble-minded. During the year there were expelled from the country 399 aliens suffering with serious mental defects, 56 of whom it was found had been so afflicted at the time of entry, divided into 22 insane, 5 imbeciles, 16 epileptics, and 13 feeble-minded; and it will be observed that 342 of the aliens deported became public charges within three years after entry by reason of the development of such deficiencies, the underlying causes of which existed prior to entry, divided into 335 who became insane and 7 who became public charges. The figures on this subject for the preceding year were 62 insane, 4 imbeciles, 16 epileptics, 9 feeble-minded, and 780 who became public charges within three years after entry, by reason of the development of mental deficiencies, the underlying causes of which existed prior to entry, a total of 871 expulsions for mental defects. Aliens suffering with mental deficiencies should be excluded, not simply because it is likely that they will not be able to get along in this country, but because of the likelihood that in time the strains of mental deficiency will enter the body politic and ultimately have a serious effect in reducing the average mental capacity of our people as well as in burdening the state and municipalities with the care of those below the normal in mental equipment. In my judgment the law upon this matter is not yet as strict as

it should be, and I pointed out in my last report that it was impossible to give the law as thorough an application as is desirable with the men and money available for this branch of the service.

Since the great majority of the defective classes who are admitted under bonds are released to destinations in New York State, it is self-evident that until the provision of the Immigration Act, permitting such excludable aliens to be admitted *in the discretion of the Secretary of Labor*, shall be repealed, the institutions of the State of New York will continue to be congested with such aliens who become public charges and who violate the terms of the bonds under which they are admitted in about 98 per cent of the cases so admitted.

The report of the Commissioner General of Immigration does not give the number of such aliens admitted to destinations *in the State of New York*, but the majority of the total admissions remain here. Unless some drastic measures are taken by the Legislature of the State of New York to procure the reapportionment of the head tax to be applied as originally intended for the care and maintenance of such aliens who thereafter become public charges, it is safe to predict that the State of New York will be confronted with a startling increase in public dependency of aliens in the next decade.

Under the present Federal Immigration Law the Act of February 20, 1907, as amended by the Acts of March 10 and 26, 1910, and March 4, 1913, the function of admitting aliens of the excluded classes has been *assumed* to be wholly discretionary, although Section 2 does not appear to contain any authority for the exercise of such power.

Since the object of this report and the function of the Bureau of Industries and Immigration is *primarily* concerned with the social and economic status of all aliens "arriving and being within the State" and since under the provisions of Article 11 of the Labor Law, Section 153, Subd. 4, the State Industrial Commission is authorized to:

* * * secure information with respect to such aliens who shall be in prisons, almshouses and insane asylums of the state, and who shall be deportable under the laws of the United States, and to co-operate with the federal authorities and with such officials of the state having jurisdiction over such criminals, paupers and insane aliens who shall be confined as

aforesaid, so as to facilitate the deportation of such persons as shall come within the provisions of the aforesaid laws of the United States, relating to deportation * * *.

It is of vital importance to the general welfare that discretionary admission of defective aliens into the State of New York under bond shall cease and that further violation of Subd. 2 of the Immigration Act be prohibited.

Rule 17, Subd. 4 of that Act provides:

Where no appeal lies. No appeal lies where the decision of a board of special inquiry, based solely upon the certificate of the examining medical officer, rejects an alien because either (1) he is afflicted with tuberculosis or a loathsome or dangerous contagious disease, or (2) he is an idiot or an imbecile or an epileptic or is insane or feeble-minded, or (3) he has been insane within five years previously, or (4) he has any *mental* defect which may affect his ability to earn a living or render him likely to become a public charge.

And yet the Federal Government has continuously permitted appeals to be taken and does so admit such insane, epileptic and idiotic aliens who afterward become public charges upon the State of New York. The evident intention of the Act was to eliminate discretionary power in the admission of aliens suffering from grave mental defects and apparently no authority was intended to be vested in *any* official to establish *any* rules that would in effect suspend and nullify the provisions of this Law. The only discretionary power vested in any official in the case of excluded aliens is granted under Section 19 relating to (1) detention when "the testimony of such alien is necessary in behalf of the United States Government," and only applying to vessels and owners of vessels who are transgressors of the law and (2) in cases where deportation may be dangerous or inhumane as is the case during the present period of war; but in no case does this discretionary power permit excludable aliens suffering from mental disability to be released under bond and moreover it specifically provides that they shall be detained at the expense of the "immigrant fund" until they can be safely deported.

Throughout Sections 20 and 21 no authorization is provided for the admission of any excludable alien beyond the period of three years which is provided for investigation.

Section 22 provides that the Commissioner General of Immigration

* * * shall establish such rules and regulations, prescribe such forms of bond, reports, entries, and other papers, and shall issue from time to time such instructions, not inconsistent with law, as he shall deem best calculated for carrying out the provisions of this Act and for protecting the United States and aliens migrating thereto from fraud and loss, and shall have authority to enter into contract for the support and relief of such aliens as may fall into distress or need public aid; all under the direction or with the approval of the Secretary of Labor.

This section does not, however, confer any authorization to admit under bond those aliens who under Rule 17 are prohibited from the right to appeal and even were the authorization to make "such rules and regulations" intended to provide unlimited discretionary power such authority could not validly be used to vitiate the statute which prohibits the acceptance of a bond for admission of any insane, imbecile or feeble-minded alien who was clearly excluded by the certificate of the examining medical officer.

When an alien is certified to be suffering from the disabilities mentioned in Subd. 4 *it is mandatory* for the board to base its decision on the certificate of the examining medical officer since such decision can only be based upon a purely medical diagnosis.

The fact that the institutions of the State of New York are congested with aliens and their progeny, who have been admitted in violation of the express intent of the law does not justify a continuance of this abuse. From both a social and economic viewpoint the future welfare of the State is confronted with a serious menace should the practice be continued.

Even were the bonds enforceable, which they are not in 98% of the cases on record, the economic and social damage suffered by society and the State would be incalculable in terms of money.

The Federal authorities do not assume any responsibility for maintenance or investigation of aliens of prohibited classes thus admitted to destinations within this State, although they admit that these bonds are practically unenforceable. The intention of the law itself was designed to recognize the menace of such admissions to the welfare of the country and yet each succeeding administration continues this practice which is directly responsible for

the enormous expenditure by the State of New York for the maintenance of insane, feeble-minded and criminal classes among the alien inmates of our institutions. In this State for the past fifteen years from one-quarter to one-sixth of the total State budget has been spent in the care of its dependent and defective classes, about one-third of whom are aliens.

The head tax was originally provided by law *for the purpose of indemnifying the state authorities* for the maintenance and support of such immigrants and to aid in removing "any of said persons from any part of this state to any part of this or any other state, or from this state, or in assisting them to procure employment and thus prevent them from becoming a public charge." Since 1890 the Federal Government has collected a head tax of four dollars from every arriving immigrant entering the country and has since that time withdrawn all Federal aid from the state in the matter of care, maintenance and expense of deportation of these aliens who either are in the excludable classes admitted under bonds, or who after becoming residents of New York State become public charges. The city of New York alone expends over two million dollars a year for the hospital care and maintenance of dependent aliens in Bellevue and Allied Hospitals and the State Hospital Commission shows an alien population of one-third in the insane asylums *which, together with dependents of other classes, gives an alarmingly increasing total each year.*

There is in the Federal Treasury an unexpended balance of about \$9,000,000 over and above the expenditures from this fund, and the State of New York should demand relief from Congress in the matter of caring for its alien insane and other dependents by reapportioning that portion of the head tax collected from aliens who declare New York to be their state of future permanent residence. *In no other state in the Union are the conditions so inequitable and the drain on the public treasury so stupendous as those under which the Empire State is staggering, and which in the next decade threaten to reach truly alarming proportions.*

It is recommended that section 21 of the Burnett Bill now before Congress, allowing discretionary power of admission be eliminated and that a provision be inserted to provide for the apportionment of an equitable amount of the head tax to the State

of New York, as discussed in the previous paragraphs of this report.

A nation may regard itself in danger when it finds a large percentage of broken down and defective population, or when too large a proportion of a population is thus withdrawn from productive lines there is also great danger; hence the advisability of ungraded classes in our public schools, vocational training, national and state employment agencies and other organizations directing the activities of this class into self-supporting channels.

·IMMIGRANT SOCIETIES

The Society for Italian Immigrants whose annual (1915) statistical statement shows that its activities have increased 25 per cent over previous years in assisting emigrant reservists deserves special attention in this report. It is obvious that the sudden influx of thousands of reservists into the city and their concentration here awaiting embarkation during the winter months would have created much hardship had not the situation been so admirably managed by this society. The fact that this Bureau has not received a single complaint in consequence of these extraordinary conditions attending the arrival and departure of 81,000 Italian emigrants and that the Society for Italian Immigrants has cared for, housed and assisted 45,495 aliens, the bulk of whom arrived in this city during the past seven months, is the most remarkable achievement ever attained by an institution of this character. This society is highly organized and its agencies co-ordinate throughout the United States and Italy. It is assisted financially in its philanthropic work by the Italian government, and by voluntary contributions. The immense number of 22,313 immigrants were lodged by the society during the year 1915, totaling 44,024 days' maintenance. A total of 25,058 Italians were met at railroad stations and accompanied to steamship docks direct and 20,437 were met at railroad stations and accompanied to the society, making a total of 45,495 Italians assisted during this year by this society. Italian reservists numbering 58,000 have embarked at the port of New York and the balance of 23,000 proceeded through New York City to New England ports. The statistical report of the society for 1915 is a truly remarkable

document and its activities for the year 1915 are highly commended by this Department as a social and economic benefit not only to Italian immigrants but to the state as well.

The activities of other philanthropic societies were not so greatly taxed owing to the decrease in immigration and some of these institutions were temporarily discontinued. Other societies doing important work, however, are the Panhellenic Union, the Austrian Society, The Hebrew Sheltering and Immigrant Aid Society, and numerous smaller institutions.

The object and work of the National Americanization Committee deserves commendation in any report concerning immigration conditions in the state or nation. The Committee's object is primarily "Americanization," including "the union of the many peoples of the country into one nation; the use of the English language throughout the nation; American standards of living in every community; a common interpretation of American citizenship; a recognition of foreign-born men and women in the human, social and civic, as well as the industrial, aspects of our American life."

The committee recognizes that Americanization is a complex process, produced by many agencies, and not to be swiftly accomplished. But it believes that the English language, American citizenship and American standards of living are, without question, the first steps, and in addition that all organizations that have any point of contact with the immigrant population have a part in Americanization. These include: juvenile courts, hospitals, and many other immigration societies, agencies and departments.

Illustrations of the work accomplished during the first six months by the National Americanization Committee, in co-operation with the agencies outlined, include night school publicity campaigns in Detroit and Syracuse under the auspices of Chambers of Commerce, in Wilmington, Delaware, and in Michigan; college training courses for social service in immigration introduced in whole or in part in Yale, Columbia and Chicago Universities, Beloit and Tufts Colleges, and a number of other colleges and universities; preliminary surveys in cities to serve as the basis of Americanization work; plans and outlines for teaching

English and civics; speakers' bureau and bulletin, and Americanization conferences, notably the national conference in Philadelphia in January, 1916; prize competitions, among which is the housing contest now in progress for the best plans for houses especially designed for industrial towns of rapid growth; the publication of a quarterly magazine, for clearing information of Americanization work as conducted by agencies public and private throughout the country.

The National Americanization Committee is a private organization supported by voluntary contributions and it has performed a notable achievement in stimulating the interest of national, state, municipal and individual officials and organizations in one of the most important problems with which the nation is confronted.

EMPLOYMENT AGENCIES

Conditions in employment agencies dealing with immigrant girls are unsatisfactory and many of these agencies are now under observation. There is reason to believe that a systematic traffic in girls is conducted among certain agents in the lower East Side and that all of the evils of white slavery and enforced prostitution are flourishing among many of them. This Bureau, with its present reduced force, is incapable of making the investigations except under extreme difficulties, but it is to be hoped that the next report of the Bureau will contain some interesting details concerning the prosecution now contemplated.

THE WESTERN DIVISION

Owing to the fact that the number of employees of the Buffalo office was reduced 50 per cent during the major part of 1915, the success of this branch of the Bureau is commendable.

Employment agents in Buffalo and adjacent cities were kept under constant surveillance and prosecutions were instituted wherever bad faith or obstinacy were evident on the part of such agents in their dealing with immigrants. Except in one instance amicable adjustments were successfully conducted. This was in the case of a Buffalo agent who, after several hearings before the Commissioner of Licenses of the City of Buffalo, was

given an option by that official of retiring from business as a licensed agent in Buffalo or submitting unconditionally to the recommendations and regulations issued by the Buffalo office of this Bureau.

There was collected by this Division for complainants \$1,289.33, mostly by correspondence. This sum included wage claims, delayed refunds of prepaid tickets and foreign money orders, office fees wrongfully withheld by employment agents, and miscellaneous claims. The amounts of individual claims range from \$1 to \$195.

There were 139 temporary labor camps in eight western counties inspected by two members of the Buffalo force.

Information was given to 103 written inquiries from eleven states of the Union, and in 534 cases verbal advice and information was given.

There were 46 violations of state and Federal laws submitted to the proper authorities. This Bureau obtained evidence against two notorious characters of Lackawanna, who were indicted by the grand jury of Erie County for keeping disorderly houses in a section which is inhabited almost exclusively by aliens.

Numerous cases of alien complainants were referred to the State Insurance Department. In many of these cases policies of aliens were cancelled by insurance companies without notice when payments were not made punctually, and hundreds of dollars of premiums had been lost by those who submitted their complaints to this office. It would be beneficial to the large immigrant population of the state if insurance companies, which deal extensively with non-English speaking immigrants, would issue policies in languages spoken by their clients. Applications are printed in this manner and it is only fair to the policy-holder that the same regulation should apply to the policy itself. A partial or total ignorance of the terms of a policy often causes injustice and loss to the immigrant policy-holder.

On account of lack of immigration from Europe, the necessity for visits to the railroad depots of Buffalo was reduced to the minimum.

Our obligations are acknowledged to public officials, educators and organizations who have co-operated in the work of the Bureau during the year 1915.

MARIAN K. CLARK,
Chief Investigator

COMPARATIVE SUMMARY OF WORK

	1911	1912	1913	1914	1915
Complaints received.....	515	1,112	2,121	3,482	2,357
Advice and information.....	551	380	798	2,571	2,244
Total.....	1,066	1,492	2,919	6,053	4,601
Inspections.....	1,588	1,821	1,779	3,522*	5,043
Thereof: Labor camps.....	272	238	185	*689	824
Lodging places.....	40	616	448	*1,130	1,424
Other.....	1,276	967	1,146	*1,703	2,795
Re-inspections.....	†	501	289	‡	825
Investigations.....	749	844	1,838	3,029	2,160
Total investigations and inspections.....	2,337	3,166	3,906	6,551	7,528
Names of children of school age referred to school authorities:					
New York City.....	7,324	13,129	14,150	19,012	5,821
Remainder of State.....	1,045	2,203	2,900	2,073	1,326
Total.....	8,369	15,332	17,050	21,085	7,147

* Inclusive of re-inspections.

† Data not available.

‡ Re-inspections included with inspections.

COMPLAINTS

SUBJECT	RECEIVED		Settled by Bureau
	Total	Thereof involving violation of law	
Accidents.....	18	.....	10
Aliens in prison.....	3	.....	2
Banks.....	102	16	46
Baggage.....	23	.....	18
Benevolent societies.....	1	.....	.....
Collection agencies.....	1	.....	1
Deportation.....	6	.....	4
Disorderly houses.....	5	.....	3
Domestic relations.....	21	.....	13
Employment agencies.....	246	40	121
Exploitation.....	3	.....	2
Expressmen.....	1	.....	1
Extortion.....	15	.....	2
Frauds.....	331	.....	239
Hackmen.....	2	.....	2
Insurance.....	64	.....	3
Interpreters.....	7	.....	7
Labor camps.....	271	29	262
Larceny.....	10	.....	3
Lawyers.....	80	32	43
Loans.....	15	.....	5
Lost articles.....	4	.....	1
Lost immigrants.....	2	.....	1
Notaries.....	8	5	7
Porters.....	1	.....	13
Runners.....	21	5	4
Real estate.....	15	.....	8
Steamship tickets.....	174	103	134
Wages.....	669	.....	179
White slavery.....	10	.....	6
Lodging place violations.....	55	55	50
Miscellaneous.....	173	1	108
Total.....	*2,357	286	1,298

* Includes 2,102 cases in which both parties resided in New York State, 243 with one party in this State, and 12 with both parties outside of New York.

COMPLAINT CASES INVOLVING VIOLATION OF LAW		Number of cases
SUBJECT AND LAW		
Banks:		
Chapter 348, Penal Law.....		.....
Section 970, Postal Law.....		2
Chapter 393, Laws of 1911.....		10
Section 302, Penal Law.....		5
Employment Agencies:		
Chapter 514, Section 155, Laws of 1910.....		12
Chapter 700, Laws of 1910.....		28
Lawyers:		
Section 270, Penal Law.....		7
Chapter 468, Judiciary Law.....		25
Labor Camps:		
Rules, Industrial Code.....		24
Labor Laws.....		5
Lodging Places:		
Chapter 548, Laws of 1910.....		55
Notaries:		
Section 1820-a, Penal Law.....		9
Runners:		
Section 7, Hackmen's Ordinance.....		2
Section 329-e, Code-Ordinances.....		1
Section 465, City Code.....		2
Steamship Tickets:		
Chapter 415, Laws of 1911.....		62
Section 1563, Laws of 1911.....		23
Chapter 578, Laws of 1911.....		18
Total.....		286

REQUESTS FOR ADVICE AND INFORMATION			
SUBJECT	Verbal	Written	Total
Accidents.....	151	55	206
Agricultural opportunities.....	.....	14	14
Aliens in prison.....	.....	3	3
Assault.....	4	4	8
Assistance.....	.....	3	3
Baggage.....	6	5	11
Banks.....	8	8	16
Bankruptcy.....	17	2	19
Complaints.....	.....	18	18
Contract (breach of).....	17	.....	17
Custom duty.....	.....	3	3
Date of landing.....	.....	7	7
Deportation.....	9	6	15
Domestic relations.....	18	4	22
Employment.....	208	45	343
Employment agencies.....	65	8	73
Federal Immigration Acts.....	11	6	17
Foreign affairs.....	22	6	28
Frauds.....	2	50	52
Information re cases in hands other agencies.....	35	1	36
Insurance.....	14	8	22
Larceny.....	8	.....	8
Lawyers.....	6	15	21
Legal advice.....	132	27	159
Loans.....	13	7	25
Lost immigrants.....	.....	7	7

REQUESTS FOR ADVICE AND INFORMATION — (Concluded)

SUBJECT	Verbal	Written	Total
Lost articles.....	.....	2	2
Money orders.....	.....	2	2
Naturalization.....	55	37	92
Partnership.....	4	2	6
Real estate.....	40	54	94
Relief and assistance.....	21	.....	21
Shares of stock.....	6	9	15
Steamship tickets.....	12	15	27
Translation.....	50	.....	50
Transmission.....	7	26	33
Wages.....	399	60	459
Miscellaneous.....	194	96	290
Totals.....	1,629	*615	2,244

* Of these 262 were from New York State.

INSPECTIONS

SUBJECT	Totals
Banks.....	11
Docks and ferries.....	1,270
Employment agencies.....	271
Evening schools for immigrants.....	56
Immigrant lodging places.....	1,424
Immigrant homes.....	271
Interpreters.....	3
Labor camps.....	824
Miscellaneous.....	145
Notaries.....	2
Porters.....	4
Railroad terminals.....	336
Runners.....	2
Steamship tickets.....	424
Totals.....	5,043

INVESTIGATIONS

SUBJECT	Number
Accidents.....	12
Aliens in prison.....	1
Baggage.....	27
Banks.....	138
Benevolent societies.....	.....
Collection agencies.....	1
Deportation.....	6
Disorderly houses.....	20
Domestic relations.....	50
Employment agencies.....	191
Exploitation.....	8
Expressmen.....	2
Extortion.....	4
Frauds.....	370
Hackmen.....	*3
Insurance.....	11
Labor camps.....	45
Larceny.....	12
Lawyers.....	124
Loans.....	5

INVESTIGATIONS — (Concluded)

SUBJECT	Number
Lost articles.....	1
Lost immigrants.....	.....
Notaries.....	9
Porters.....	3
Runners.....	29
Real estate.....	25
Steamship tickets.....	281
White slavery.....	47
Wages.....	299
Lodging place violations.....	.....
Miscellaneous.....	299
Miscellaneous sheet*.....	4
(Advice and information).....	133
Total.....	2,160

*This sheet contains miscellaneous action taken on cases, but not reopened on account of such action.

MATTERS REFERRED TO OTHER AGENCIES

	COM- PLAINTS	REQUESTS FOR ADVICE AND INFORMATION		TOTAL
		Verbal	Written	
American Federation of Labor.....	.....	.....	1	1
Attorney General.....	.....	.....	1	1
Banking Department.....	19	8	2	29
Board of Education.....	1	.....	.....	1
Bonded attorneys.....	19	19	22	60
Bureau of Dependent Adults.....	.....	3	.....	3
Charity Organization Society.....	.....	10	.....	10
Commissioner of Agriculture.....	.....	.....	4	4
Commissioner of Education.....	.....	.....	1	1
Commissioners of Labor.....	.....	.....	2	2
Commissioner of Licenses.....	94	83	6	183
Consuls:				
Austrian.....	1	3	2	6
Belgian.....	.....	.....	1	1
British.....	.....	2	.....	2
Italian.....	.....	7	4	11
Russian.....	1	1	3	5
Department of Charities.....	3	6	.....	9
Department of Health.....	.....	1	.....	1
Department of Insurance.....	2	3	2	7
Department of Labor.....	.....	5	.....	5
District Attorneys.....	47	3	.....	50
Domestic Relations Court.....	1	.....	.....	1
Employers.....	.....	47	.....	47
Employment Bureau, Public.....	.....	18	.....	18
Employment Bureau, State.....	.....	168	12	180
Foreign powers.....	1	.....	.....	1
Governors.....	.....	.....	3	3
Hebrew Sheltering and Immigrant Aid Society.....	1	2	1	4
Highway Department.....	1	.....	.....	1
Industrial Commissions.....	36	.....	6	42
Legal Aid Societies.....	398	396	26	820
Mayors.....	.....	.....	6	6
National Employment Exchange.....	.....	7	.....	7
North American Civic League for Immigrants.....	.....	.....	1	1

MATTERS REFERRED TO OTHER AGENCIES — (Concluded)

	COM- PLAINTS	REQUESTS FOR ADVICE AND INFORMATION		TOTAL
		Verbal	Written	
Police Department.....	3	14	8	25
Polish Immigrant Home.....		1	.....	1
Prison Association.....	1	.....	1	2
Public Administrator.....		1	.....	1
Receivers in bankruptcy.....	8	3	.....	11
Register's office.....		1	.....	1
Secretaries of State.....		1	1	2
Slavonic Immigrant Society.....		1	.....	1
Society for Prevention of Cruelty to Children.....	1	.....	.....	1
Telephone settlement.....		19	.....	19
Tenement House Commission.....	1	.....	1	2
Title Guarantee and Trust Co.....		3	.....	3
United States:.				
Bureau of Naturalization.....		3	.....	3
Commissioner General of Immigration.....		.....	2	2
Commissioner of Immigration.....	1	3	23	27
District Attorney.....		1	.....	1
Division of Information.....		31	3	34
Department of Agriculture.....		1	2	3
Department of Justice.....		.....	1	1
Navy Department.....	1	.....	.....	1
Post Office Department.....	21	2	10	33
Secretary of State.....		.....	1	1
War Department.....		.....	1	1
Workmen's Compensation Commission.....	1	105	8	114
Total.....	663	932	168	1,763

LICENSING OF LODGING HOUSES

	FISCAL 1915	YEAR 1914
Licenses issued.....	202	232
Fees collected.....	\$1,725	\$2,500
Inspections of:		
Licensed houses.....	851	487
Exempt houses.....	502	507
Other.....	71	136
Total.....	1,424	1,130
Rate cards filed.....	2,822	1,680

Part VIII

REPORT OF BUREAU OF INDUSTRIAL CODE

[381]

REPORT OF DEPUTY COMMISSIONER

(IN CHARGE OF BUREAU OF INDUSTRIAL CODE)

To the Industrial Commission:

I beg to submit herewith a report of the activities of the Industrial Board and Bureau of Industrial Code for the year ending October 1, 1915.

The Industrial Board had at work on September 30, 1914, advisory committees on Fire Hazards, Dangerous Machinery, Dangerous Trades and Processes, Foundries, Sanitation and Comfort, Milling Industry, Ventilation and Lighting, and a sub-committee on Cannery Labor Camps.

These committees were engaged in the work of formulating rules interpreting and amplifying the Labor Law, and were composed of persons especially qualified to act as advisors in regard to the details of the subjects referred to them and upon which the Board was required to make rules.

This work was carried on until May 22, 1915, when the Industrial Commission was created. The law creating the Industrial Commission consolidated the State Department of Labor and the Workmen's Compensation Commission, and abolished the State Industrial Board.

During the period from October 1, 1914, to May 22, 1915, the following seven bulletins containing two hundred and eighty-eight rules which had been adopted, were published:

Bulletin 7.—Rules defining Fireproof and Fire-Resisting Material, Rules 500 to 513 (13 in all), effective November 15, 1914.

Bulletin 8.—Rules relating to the Construction, Guarding, Etc., of Elevators and Hoistways in Factories, Rules 400 to 447 (47 in all), effective January 1, 1915.

Bulletin 8, as amended.—Rules relating to the Construction, Guarding, Etc., of Elevators and Hoistways in Factories, Rules 400 to 445 (45 in all), effective April 15, 1915.

Bulletin 9.—Rules relating to Sanitation of Factories and Mercantile Establishments, Rules 100 to 197 (97 in all), effective April 15, 1915.

Bulletin 10.—Rules relating to Equipment, Maintenance, Etc., of Foundries, Rules 550 to 599 (49 in all), effective April 15, 1915.

Bulletin 11.—Rules relating to the Milling Industry and Malthouse Elevators, Rules 650 to 664 (14 in all), effective April 15, 1915.

Bulletin 12.—Rules relating to the Removal of Dust, Gases and Fumes, Rules 700 to 723 (23 in all), effective May 15, 1915.

Considerable preliminary work of an investigational nature was in progress at this time.

The Board also considered applications for the acceptance of fire escapes as a required means of exit in buildings over five stories in height, and for exemption from the requirement to enclose stairways in partitions of fire-resisting material, in buildings not more than six stories in height. A summary of such cases is as follows:

APPLICATIONS FOR	Oct. 1, 1914, to May 22, 1915	May 22 to Sept. 30, 1915	Entire Year
Acceptance of fire-escapes as second means of exit in buildings of over five stories:			
Approved.....	104	55	159
Denied.....	85	5	90
Total.....	189	60	249
Exemption from requirement to enclose stairways in par- titions of fire-resisting material in buildings of not over six stories:			
Approved.....	6	20	26
Denied.....	4	3	7
Total.....	10	23	33
Approval of fire-alarm signal systems:			
Approved.....	11	7	18
Denied.....	15	7	22
Total.....	26	14	40
Approval of devices for use in fire-alarm signal systems:			
Approved.....	84	28	112
Denied.....			
Total.....	84	28	112
Variations from Labor Law or Industrial Code:			
Approved.....		14	14
Denied.....			
Total.....		14	14
Grand total—Approved.....	205	124	329
Denied.....	104	15	119
All applications.....	309	139	448

Under the provisions of Rule 375, of Bulletin No. 5, the Industrial Board organized a Board of Approval, made up of a representative of the New York City Fire Department, a representative of the State Labor Department, and the Secretary of the Industrial Board. The duties of the Board of Approval are defined in the rule above referred to and consist of passing upon devices and apparatus for use in approved fire alarm signal installations and reports thereon with recommendations. A list of such devices and apparatus, which have been approved, is contained in the Supplement to Bulletin No. 5, which bulletin contains a complete set of specifications for the installation of interior fire alarm signal systems.

The powers and duties of the Industrial Board were transferred to the Industrial Commission, and to properly carry on this important work, the Bureau of Industrial Code was created, and on July 8, 1915, I received a provisional appointment as deputy commissioner and was placed in direct charge of the Bureau; on July 15, 1915, Thomas C. Eipper was provisionally appointed to a deputy commissionership and shares equally in the management of this Bureau. After competitive civil service examination, both appointments were made permanent on November 15, 1915.

To the duties of the Bureau as mentioned above were added those of preparing cases in the matter of petitions for variation from statutory or Industrial Code requirements, and petition for review by Commission, which powers were conferred on the Industrial Commission by the enactment of chapters 674 and 719 of the Laws of 1915.

The task of continuing the duties of the Industrial Board, together with the added duties above referred to, and the organization of the new Bureau, was undertaken after a lapse of eight weeks, and at the present time the permanent force of the Bureau consists of two deputy commissioners and two stenographers.

I might mention that at the time of the abolition of the Industrial Board, there were in addition to the chairman and four associate members, a secretary, an assistant secretary, a special

investigator and three stenographers employed in carrying on the work of the Board.

Since the creation of this Bureau much preliminary work necessary for the formulation of additional rules and the revision of those now in force has been performed.

RICHARD J. CULLEN,
Deputy Commissioner.

Part IX

**REPORT OF BUREAU OF FIRE HAZARDS
BOILERS AND EXPLOSIVES**

13671

REPORT OF CHIEF ENGINEER
IN CHARGE OF THE BUREAU OF FIRE HAZARDS, BOILERS AND
EXPLOSIVES)

To the Industrial Commission:

On April 7, 1915, chapter 234, Laws of 1915, became a law and placed the jurisdiction over explosives in the Department of Labor. The organization of the Bureau was immediately started.

May 25, 1915, five special investigators from the Division of Industrial Hygiene were assigned to this Bureau by Commissioner James M. Lynch to investigate the explosive magazines in the state outside of New York City. There were about 400 names on the roster of the Department of State Fire Marshal, and it was found that about 100 of these had stopped using and storing explosives. In the first three months, 350 firms and contractors were found storing explosives without a license and in a manner contrary to law. These concerns were compelled to build fireproof and bullet-proof magazines or containers as prescribed by sections 230 to 237, inclusive. Only 25 per cent of the licensed magazines complied with the provisions of chapter 234, in most cases being located too near dwelling houses, public highways and railroads as prescribed by section 231 of the law. Most of these magazines at the present time comply with the law.

The Bureau divided the state into nine inspection districts, with one boiler inspector in each district, and it will be the duty of each boiler inspector to inspect boilers and explosive magazines.

The application of explosives to the arts of peace has received a tremendous impetus in recent years, and to-day by far the largest proportion of the explosives manufactured in this country is used in engineering and mining work. Explosives have facilitated the driving of tunnels, the building of roads and railways, the winning of ores and coal, the removal of obstructions to navigation, and the rapid accomplishment of many tasks that would have been impossible without their use, except by an enormous expenditure of time and money.

The work of regulating the handling and storage of explosives is a very important one as it conserves and protects both life and property by placing the necessary safeguards around an industry that is a grave menace to the community.

Section 237 provides that every person selling or giving away explosives in quantities over five pounds shall keep at all times an accurate journal or book of record in which must be entered from time to time, as it is made, each and every sale made by such person in the course of business. The provisions of this section should be strictly adhered to so as to make it difficult for any one with criminal intent to obtain explosives.

The utilization of explosives in the industrial development of New York State has been quite marked during the past year. A large amount of blasting has made possible the rapid completion of several of the large undertakings on hand. Millions of tons of rock have been shot down for grading, for rip-rap, and masonry construction. Much blasting has also been done in the quarries, mines, clay pits, cement quarries, and on the railroads, as well as in the river, harbor, and canal improvements. There is a marked increase in the use of explosives for breaking up ice gorges that threaten navigation and bridges. It is a matter of pride when we realize that with all of this activity there is a growing tendency toward a better use of the explosives, especially with regard to the safety of the workmen using them. They are being more carefully and satisfactorily handled each year.

One of the marked advances that has been made is in the utilization of explosives for road building and reclamation work. In road building, the use of explosives has undergone marked changes, especially in grading and draining the road bed. This last application has been most marked, as it has enabled the builders to go ahead much more rapidly and at less expense in their work, the blasting of side and outfall ditches having been more than successful. The most marked advantages have been noted on the more difficult jobs.

The road improvements have necessitated the handling of thousands of yards of hard ground by a variety of means. Here again explosives have been used with discretion and to good advantage, hard clays, shales and rock being the types of material

most often shot in establishing satisfactory drainage. Many different methods of blasting have been employed, and there is yet room for material advances from the standpoint of economy as well as of safety in this class of work.

Other activities have included the blasting of drainage ditches and canals for the reclamation of wet lands for farms and for health. This reclamation has included the drainage of permanent swamps and ponds as well as overflowed and marsh lands. The clearing and preparation of agricultural lands has also consumed an increasing amount of explosives. This work is much needed, as all possible agricultural lands are essential to the fuller development of the state. This class of work is usually done with care from the standpoint of economy and safety.

Since the beginning of the European war the manufacture of explosives has been greatly increased in this state, and the risk of storing explosives has become more hazardous.

Persons who contemplate handling or storing explosives in quantities over five pounds should get in communication with this Bureau before any purchase of explosives is made. We can then give them the necessary instructions as to the location and construction of the magazine and furnish them a copy of the law and the necessary application blank to be filled out, asking for a certificate of compliance. When application is made for a permit to store explosives, an experienced man will be sent from this Department to help and advise the applicant as to the construction and location of the magazine.

As to the advisability of securing a license, the questions come up: Why should I take out a license? What good will it do me? The answer is: Section 239-a provides that whoever fails to comply with or violates any provisions of this article shall be guilty of a misdemeanor. If an explosion should happen to occur, the person storing explosives in violation of the law would be held criminally liable for any damage to property or loss of life as a result of the explosion. When this Department issues a certificate of compliance, every precaution has been taken and it will be almost impossible for an accident to occur, and no person will be held criminally liable.

What are known as non-freezing explosives are being manufactured and used in large quantities. This kind of explosives does away with the necessity of thawing, which is the greatest danger that is met with for the employees. Statistics prove that more accidents have occurred from this cause than any other, and we, therefore, recommend that this class of explosive be used wherever possible.

STORAGE AND HANDLING OF EXPLOSIVES

In order that the demands of the users of explosives may be promptly supplied, it is necessary that manufacturers, transporters, distributors and users of explosives maintain proper and adequate storage facilities. The necessity therefore arises of having magazines in which may be stored large quantities of explosives. At high temperatures explosives may become unstable and more sensitive to shock or frictional impact; consequently they should be stored in cool places. As the addition of moisture is deleterious to all explosives, it is undesirable to store any explosive in a damp place. Hence, in order that correct conditions may prevail, explosives should be stored in a thoroughly ventilated magazine situated on well-drained ground. Since any change in composition may affect the safety or the efficiency of an explosive, explosives containing a definite quantity of moisture should not be subjected to a drying-out process.

The placing of a magazine in relation to ground level affects two safety features in opposite ways. When the magazine is above ground, adequate drainage is easily maintained, but any natural or artificial barricade for limiting the effect of a possible explosion is less effective. When the magazine is partly or wholly below the surface of the ground, barricades are more effective, and for some magazines the earth itself would be an adequate barricade. However, such construction may make proper drainage difficult or even impossible, and drainage should be given first consideration.

Protection of Explosives in Magazines

During storage explosives should be protected as far as practicable against heat, moisture, fire, lightning, projectiles, and theft. The buildings should therefore be weatherproof, covered by fire-

proof and bullet-proof material, well ventilated, in secluded locations, and not exposed to fire risk from burning grass or underbrush.

Detonators or other devices containing fulminating composition should not be kept in a magazine in which there are explosives, but should be kept in a separate magazine.

Receiving Explosives

A trustworthy person should have supervision of the receiving and storing of explosives in magazines. He alone should have access to the magazines for the purpose of taking out explosives that are required for immediate use.

When a new consignment of explosives is received, it should be stored in the magazine in such a way that the oldest explosives can be issued first. When storing the packages in a magazine a space of a few inches between the walls and the packages should be left for ventilation purposes. The boxes should not be placed so that the cartridges stand on their ends, because this position increases the exudation or leakage of nitroglycerin from cartridges of nitroglycerin explosives.

Opening Packages

Packages of explosives should never be opened within the magazine, but in a properly sheltered place at a safe distance. They should be opened with a wooden mallet and a wooden wedge. If a screwdriver is necessary in opening boxes, it should be used only for removing screws. Packages of explosives should never be opened with a nail puller, nor powder kegs with a pick.

Repair and Care of Magazines

When it is necessary to repair or make alterations in a magazine, all explosives should be carefully removed and the magazine thoroughly washed. All tools used in making repairs should be of wood or brass. The driving of nails into the floors of old buildings that have been used in the manufacture of explosives has resulted in serious accidents.

Magazines should be kept clean and the floors should be kept free from grit and dirt. The ground around the magazine should

be kept free from rubbish, leaves, and dead grass, and from other materials that might feed a fire. Upon each side and each end of such magazine, or upon its barricade, there should at all times be kept conspicuously posted a sign, with words "MAGAZINE — EXPLOSIVES — DANGEROUS" legibly printed thereon in letters not less than six inches high.

No artificial heat of any kind for thawing or other purposes should be introduced into a magazine. When thawing is necessary the explosives necessary for immediate use should be taken away from the magazine and thawed in a manner as described hereafter.

In England there is a statutory requirement that all magazines shall be provided with a lightning conductor, but no definite arrangement of the conductors is prescribed. In other countries a metallic network is suspended above the magazine on metal poles, the poles being placed in a circle 20 to 30 feet distant from the magazine. At some magazines the network is dispensed with, the poles being depended on for protection against lightning. The practice in Germany is to support vertical copper rods of high electrical capacity near the magazine. The rods are from 36 to 80 feet high, and are sometimes placed on the embankment.

Protection of Life and Adjacent Property

The most important consideration in the storage of explosives is the prevention of explosions. If this is accomplished no damage to life and property can result. Since absolute prevention is impossible, certain precautions must be taken to prevent damage should an explosion occur.

Selection of Magazine Site

In selecting a site for a magazine the topography of the ground should be carefully considered, and advantage should be taken of any natural protection offered by hills. It is preferable to erect a magazine on sandy soil rather than on rocky ground, for, in the event of an explosion, the distance which the earth waves are transmitted is materially reduced when the explosion occurs on loose and friable ground. The distance separating magazines

from inhabited dwellings and railways should be far enough so that if an accidental explosion occurs within a magazine the least possible damage will be done to the buildings of the surrounding country.

Magazines in England and Germany are generally substantial buildings with masonry or heavy brick walls, for the reason that the danger of explosion within a magazine is considered to come mostly from without. The buildings are constructed with a view of protecting contents from rifle bullets and from unlawful entry, lightning and fire. The objectionable feature of this type of magazine is that in the event of an explosion within the magazine, large fragments of the heavy walls are projected over the surrounding country, endangering life and property in the vicinity.

Thawing Explosives

When a temperature of 52 degrees F. or less prevails, the nitroglycerin in ordinary dynamites crystallizes, or, as is commonly stated, freezes. In order to use such explosive safely and to procure the maximum efficiency they must be properly thawed before using. While being thawed, the explosives should be in a horizontal position, as otherwise they are more liable to exude nitroglycerin.

Small Quantities.—The thawing of frozen explosives requires extreme care, and an improper method has frequently led to very serious accidents. No attempts should be made to thaw a frozen explosive by placing the cartridge before a fire, or near a boiler, or on steam pipes, or in hot water, or in the sunlight. While being thawed, nitroglycerine explosives are extremely sensitive and should be handled with great care. During thawing nitroglycerin tends to separate from the dope and run out of the cartridge (that is, to exude), and this is a source of danger.

When only a small amount of explosive is required, it may be thawed in a thawer such as is furnished by all manufacturers of explosives and has been found safe for use as directed. It consists of a water-jacketed tin vessel, in which the cartridges are placed, closed with a tin cover. Before the water is placed in the vessel it is warmed to a temperature not uncomfortable to the

immersed hand; the temperature should never exceed 130 degrees F. The cartridges are allowed to remain in the thawer until gentle pressure shows that they are completely thawed throughout. When thawed, the material feels plastic, or like flour, between the fingers. When frozen, or partly frozen, it feels more or less rigid and hard. The stick should be thawed completely, because dynamite when frozen can be detonated only with great difficulty, and any part that is frozen will be imperfectly detonated in the blasting hole; hence not only may such partly frozen powder fail to give its full effect as an explosive, but there is danger of a serious accident.

When explosives are used in temporary commercial projects in quantities that do not require the thawing of more than 200 pounds at one time, use is often made of manure thawing boxes. They are simple in construction, consisting of tight boxes which, after the explosives are inserted, are completely surrounded with 12 to 18 inches of fresh manure. Such thawing boxes have the advantage of cheapness, but they are adapted to the thawing of explosives only when the explosives are not needed in a comparatively short time.

The practice of placing cartridges of explosives directly in manure piles can not be recommended, for the cartridges may absorb moisture; moreover, manure may become as hot as 150 degrees F., a temperature that is unsafe for the thawing of any explosive.

Large Quantities.—Where large quantities of explosives are used daily a thaw house situated at a safe distance from magazines and other buildings should be provided. The capacity of the thaw house should be limited so that it will not hold more than is necessary for one shift. It should never hold more than 500 pounds of explosives. The best practice is to place in the thaw house the amount of explosive that is required for immediate use only.

It is not a safe practice to expose explosives to continuous heating, as some explosives, such as gelatine dynamites, have been known to decompose and explode when subjected to high temperatures for only a few days.

Transporting Thawed Explosives.— When an explosive is used in mines or quarries situated in extremely cold localities it may be transported to the working place from the thaw house in an insulated container of the required size, which is provided with a jacket of a good non-conducting material such as hair felt. A device of this kind prevents the thawed explosives from freezing during transportation. It accordingly insures the greatest efficiency in their use.

Manure Thaw Houses.— For explosives employed in temporary commercial projects in quantities that require the thawing of more than 200 pounds at one time, manure thaw houses have been satisfactorily used. The principle of their construction is similar to that of manure thawing boxes, except that the cartridges of explosives are placed in layers on shelves. This arrangement compensates for the reduced area of radiation per unit of volume of the inner compartment. In manure thaw houses also a door must be provided for entering the compartment. The roof and the lower portion of the exterior retaining walls should be so constructed that they are easily removable, in order that fresh manure may be added when necessary.

As the heat generated by manure is produced by chemical reaction, obviously manure will be effective as a thawing material as long as this reaction is sufficiently maintained. Such a condition often obtains for many weeks. The possible high temperature within the manure walls of the thaw house or the thawing box are not considered dangerous because the explosive within the compartment is isolated from the manure. Although careful search has been made, no instance of fire resulting from the natural heat of manure used in thaw houses or thaw boxes has been found.

What has been said of the construction of magazines applies equally to the designing of thaw houses. In addition to protecting thaw houses from dangers from without, the increased sensitiveness of explosives within the thaw house involves another danger, due to the high temperatures that must be maintained.

Rules

This Department has adopted the following rules, and they have been recommended by the Institute of Makers of Explosives.

GENERAL RULES

A competent person should always be in charge of explosives, magazines in which explosives are stored, keep magazine keys, and be responsible that all proper safety precautions are taken.

If artificial light is needed, use only an electric flash light or electric lantern. Do not use oil-burning or chemical lamps, lanterns, candles or matches.

Do not carry or allow others to carry matches.

Do not allow shooting or allow anyone to have cartridges or firearms.

Do not allow unauthorized persons near explosives.

Keep constant watch for broken, defective or leaky packages.

Do not allow metal bale hooks or other metal tools to be used.

Do not open or re-cooper packages with metal tools.

Do not use empty high explosive cases or powder kegs.

Do not have blasting caps or electric blasting caps with or near explosives.

Do not leave explosives unless they are stored in a magazine or in charge of responsible persons.

Do not carry blasting caps or electric blasting caps or any explosives in your pockets, or leave them around where children or others can meddle with them.

Do not store, use or handle explosives in or near a residence.

Do not leave cars between trips, either loading or unloading, unless car is locked or guarded.

Do not allow explosives to become wet or be exposed to the weather.

Do not throw packages of explosives violently down or slide them along floors or over each other, or handle them roughly in any manner.

TRANSPORTING EXPLOSIVES

In transporting explosives avoid all unnecessary stops. Do not haul through cities, towns or villages when possible to avoid it, but where this is necessary keep off congested thoroughfares, street car tracks and dangerous crossings.

Do not leave any vehicle containing explosives unless team is securely tied and brakes set, or if motor truck is used, motor should be stopped and brakes set.

Do not carry blasting caps or electric blasting caps in the bed or body of a vehicle containing other explosives.

Do not carry metal tools in bed or body of vehicles transporting explosives.

When explosives are on vehicles without tops, they should always be protected from sun and weather by a tarpaulin.

Vehicles and harness used for transporting explosives should always be kept in first class repair. Do not run any risk of vehicles or harness breaking down.

STORING EXPLOSIVES

All high explosives should be stored only in fireproof, bullet-proof and weatherproof magazines, properly ventilated.

Black powder should be stored only in fireproof and weatherproof magazines, properly ventilated.

Black powder may be stored with high explosives if the magazine is bullet-proof, fireproof and weatherproof and properly ventilated.

Blasting caps and electric blasting caps should be stored in fireproof and weatherproof magazines, properly ventilated.

Blasting caps and electric blasting caps should never be stored in the same magazine with any other explosives.

Keep the door of a magazine securely locked when not engaged in the magazine.

Keep ground around magazines clear of leaves, grass, trash, stumps or debris to prevent fire reaching them.

If leak develops in magazine roof or walls, repair it at once.

Always ship, deliver or use oldest stock first.

When powder and dynamite are both stored in one magazine, store each explosive separately.

Dynamite boxes should be laid flat, top side up. Powder should be stored with kegs standing on ends, bungs down, or on sides, "seams down." Corresponding grades and brands should be stored together and in such manner that brand and grade marks will show. All stocks should be stored so as to be easily counted and checked and so that oldest stocks can be delivered or used first.

Always be on the lookout for dynamite cases showing stains of any nature caused by leakage of any substance from within the case and report it immediately.

Powder kegs should be thoroughly shaken by hand sufficiently often to prevent caking. Don't knock against floor or each other.

Magazine floors should be regularly swept and kept clean. Destroy sweepings from dynamite magazine by burning. Destroy sweepings from powder magazine floors by throwing them in water.

In case magazine floors become stained with nitroglycerin, scrub well with a stiff broom, hard brush or mop with a solution composed of one-half gallon water, one-half gallon wood alcohol and two pounds sulphide of sodium. Use plenty of the liquid so as to thoroughly decompose the nitroglycerin.

When magazines require any repairs on the inside of the magazine, all explosives should be removed to a safe distance and protected. If black powder has been stored in the magazine, wash the floor well with water before the repairs are made. If dynamite has been stored in the magazine and there are any indications of nitroglycerin stains on the floor, wash this portion of the floor before the repairs are undertaken, as instructed in the preceding rule. In case the floor is badly stained, notify the manufacturer of the goods which are being stored. In making outside repairs, if there is any possibility of causing a spark, fire or explosion, the explosive should be removed to a safe distance from the magazine and properly cared for

until the repairs are made. While magazines are being repaired, explosives should be protected from the weather. Don't store them on the ground.

Use a wooden wedge and mallet in opening or closing packages of explosives.

Do not have loose dynamite, powder or blasting supplies exposed in any magazine.

Do not pile damaged or unsalable explosives with salable stocks.

Do not keep or use any steel or metal tools in a magazine, or store any commodity except explosives in a magazine.

Do not store any explosives where they are likely to get wet or absorb moisture.

Do not open packages of explosives or pack or repack explosives in a magazine or within 50 feet of a magazine.

Do not leave explosives lying around where children or people can meddle with them. Always keep them under lock and key in a suitable magazine.

Do not store fuse in a hot place. Fuse should be kept cool and dry.

Do not store any explosives in a dwelling, blacksmith shop, barn or in any place where, in event of an accident, loss of life or property damage might result.

Don't use a magazine for a thawing house.

Don't store primed cartridges in a magazine, i. e., cartridges with detonator attached.

Post magazine rules in every magazine and comply with them.

DESTROYING UNSALABLE EXPLOSIVES

Whenever it becomes necessary to destroy damaged explosives, immediately communicate with the manufacturers for advice and instructions.

REPACKING EXPLOSIVES

When repacking is required or deemed necessary in order to comply with Interstate Commerce Commission Regulations, communicate with manufacturers for advice and instructions.

DELIVERING EXPLOSIVES

In delivering to customers, when explosives are not placed in a magazine and magazine locked, do not leave them unless they are in charge of some person duly authorized by customer to accept them.

Do not overload vehicles or pile explosives on vehicles so there is any danger of their falling off. Brace packages to prevent rolling or sliding. Pile high explosive cases top side up and black powder kegs on ends, bung up, or on sides, seams up.

Do not stop at a blacksmith shop for repairs or shoeing, with wagons containing explosives.

Do not leave vehicle carrying explosives unless team is securely tied and brakes set, or if motor truck is used, motor stopped and brakes set.

Don't carry blasting caps or electric blasting caps in the bed or body of a vehicle containing other explosives.

Some of the explosives stored in the state are dynamite, 20 per cent to 80 per cent; nitroglycerin, guncotton, trinitrotoluol, picric acid, blasting powder, gun powder, and blasting gelatins of all kinds.

The following is a schedule of license fees on magazines containing explosives:

Second class magazines, containing not over 50 lbs.	\$5 00
First class magazines, grade A, containing over 50 lbs. and not over 200 lbs.	5 00
First class magazines, grade B, containing over 200 lbs. and not over 10,000 lbs.	10 00
First class magazines, grade C, containing over 10,000 lbs. and not over 20,000 lbs.	15 00
First class magazines, grade D, containing over 20,000 lbs. and not over 30,000 lbs.	20 00
First class magazines, grade E, containing over 30,000 lbs. and not over 300,000 lbs.	25 00

At present there are in the state nearly eight hundred magazines having an aggregate storage capacity of over four millions pounds of explosives that have been licensed by this Department.

Acknowledgment is hereby made of the hearty cooperation of the explosive manufacturers and the Institute of Makers of Explosives.

May 25, 1915, five special investigators from the Division of Industrial Hygiene were assigned to this Bureau to investigate the explosive magazines in this state outside of New York City. They made 758 inspections between May 25 and September 30, some working only a part of that time. Up to September 30, 451 orders were issued and 433 compliances secured. Certificates of compliance, 1st class, numbering 397, and certificates of compliance, 2nd class, numbering 126 were issued. Receipts for magazine fees amounted to \$5,180.

BOILERS

On April 21, 1915, chapter 347, section 91, became a law and placed the jurisdiction over the inspection of steam boilers in the Department of Labor. The organization of this bureau was immediately begun, and in June and July six boiler inspectors were appointed.

The inspection of steam boilers in this state is very much behind the standards of other states. Most of the other states have enacted efficient laws and rules and regulations governing steam boilers, whereas our law is simply an authority to inspect boilers used for factory purposes only. We have submitted to the Legislature proposed amendments, which, if enacted, will place the care and supervision of boilers in this state on an equal footing with those of other states such as Massachusetts, which has a boiler law of very high standard.

There are approximately 25,000 to 30,000 boilers in this state and about 75 per cent of those boilers are insured by duly authorized insurance companies who file their inspection reports with this office.

There are some cities and villages in the state which a boiler inspector has never covered. This matter is being remedied as fast as possible and we hope to have all boilers regularly inspected either by a duly authorized insurance company or a boiler inspector from this Department in the near future.

Since the inception of this Bureau there have been no boiler explosions in this state and no record of any casualty due to bad conditions of any boilers.

This Bureau is only in its infancy and we expect during the ensuing year to accomplish great good and benefit the rural districts as well as the villages and cities throughout the state.

We have no jurisdiction over the boilers located in the cities of Buffalo, Syracuse and Yonkers, which cities have a constituted boiler inspection department.

The inspectors made 656 investigations and 528 inspections. Numbers have been assigned to boilers in 314 cases, and 287 certificates of inspection have been issued. Eighty-six orders were issued and 72 compliances secured. Receipts for boiler fees amounted to \$1,655.

GEORGE A. O'ROURKE,
Chief Engineer.

Part X

**OPINIONS OF THE ATTORNEY-GENERAL CON-
STRUING PROVISIONS OF LABOR LAWS**

COMPILED BY THE BUREAU OF STATISTICS AND INFORMATION

[333]

NOTE.—In the following pages are printed all of the opinions rendered by the Attorney-General in construing labor laws during the year 1915. Similar opinions of earlier years may be found in previous reports of the Commissioner of Labor. The opinions are here arranged under general subject headings. Section numbers in these headings refer to the general Labor Law. Opinions dealing with that law are placed first, arranged according to section numbers, followed by opinions referring to other laws.

OPINIONS OF ATTORNEY-GENERAL

APPLICATION OF EIGHT HOUR LAW (§ 3)

(a) Not Applicable to Watchmen Who Perform No Manual Duties

May 20, 1915.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.*

DEAR SIR.—Replying to your letter of May 8, 1915, in which you ask in the last paragraph whether a watchman, if he perform no manual duties whatever, would be considered a laborer under the terms of section 3 of the Labor Law, and therefore subject to the eight-hour-day provision, I would say that it has been the conclusion of this office, that the employee must be required to do some manual labor before he is classed as a laborer within the intent of that section. Violation of the section is a penal offense, and the courts are inclined to read its provisions strictly (*People ex rel. New York, Brooklyn & Manhattan Railroad vs. Prendergast*, 209 N. Y. 598). There are no decisions which are directly in point, but under statutes exempting laborers' wages from execution, it has been held that a jury was justified in finding that a watchman was a laborer "who on his last round in the morning was required to fire a boiler" (*McAdams vs. Ellis*, 62 S. E. 1001).

I return the correspondence with reference to the alleged violation of section 3 by the Cranford Company. I take it the Public Service Commission found that no manual labor was being performed by the watchmen.

Yours very truly,

E. E. WOODBURY,
Attorney-General.

(b) Not Applicable to Syracuse Public Library

November 8, 1915.

V. T. HOLLAND, *Assistant Secretary, State Industrial Commission, 1 Madison Ave., New York City.*

DEAR SIR.—I have carefully examined the question of the working hours of employees in the Syracuse Library. We start with the proposition that the provisions of section 3 of the Labor Law apply to all classes of employees in the State, as qualified by the definition employee in section 2 as "mechanic, workman or laborer who works for another for hire." From the pay roll submitted it appears that the employees mentioned in your communication, Davis, Martin, Briggs and Herbert Wood, are not paid annual or monthly salaries, but evidently are paid by the day on the time they put in.

I have examined chapter 137 of the Laws of 1912 and chapter 75 of the Laws of 1906, but nothing appears therein except the provision that the

city of Syracuse shall raise by tax the money to maintain the library. It is therefore apparent that there is no peculiar or special control over the library similar to that mentioned in the Attorney-General's opinion dated March 8th, 1912.*

I have also examined the Education Law, as amended in 1910, and find nothing in its provisions relative to libraries inconsistent with the general mandate of section 3 of the Labor Law. The mere fact that the library is chartered by the University of the State of New York does not, to my mind, result in a library becoming a State institution, since the term "State institution" has, I believe, a much more restricted and special meaning, and would not include all institutions holding State charters.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

PREVAILING RATE OF WAGES (§ 3)

(a) Applies to Tugboat Captain and Engineer in State Department of Public Works

July 20, 1915.

HON. WILLIAM W. WOTHERSPOON, *Superintendent of Public Works, Albany, N. Y.*

DEAR SIR.—Under date of July 8th we have a letter from you asking whether the captain and the engineer of your department's tugboat "Queen City" at Buffalo are entitled to the prevailing rate of wages under the provisions of section 3 of the Labor Law. You state that they each receive \$90.00 per month and are employed during the season of navigation. The prevailing rate of wages in the locality is for tug captains \$127.50 and for engineers \$117.50 per month.

I am obliged to advise you that in my best opinion these men are entitled to the prevailing rate of wages. Section 3 of the Labor Law applies both to employees working directly for the State and to employees working for contractors with the State. The section is narrowed in both instances to cover only employees who fall within the class of "laborers, workmen or mechanics." Though it may be urged that persons employed on boats or barges or assist in the navigation thereof are seamen and not workmen, laborers or mechanics within the general conception of those terms, I am of the view that the construction of the New York statute and the determination of whether a person is a laborer, workmen or mechanic turns more upon the question whether such an employee performs manual labor and whether he received wages in contradistinction to a salary, which latter would tend to classify the position as an office and not as an employment.

There is no doubt but that these men perform manual labor, and as they receive so much per month for an indefinite number of months, and not a

* For this opinion, see Annual Report of the Commissioner of Labor for 1912, pp. 362, 363.

fixed sum for a year, I think I am correct in saying they receive wages. Of course the men are specially trained in navigation and have received licenses to operate boats upon the public navigable waters which makes their labor in a sense of a higher grade than mere manual labor.

However, section 3 of the Labor Law it will be remembered contains in its closing provisions the following:

but nothing in this section shall be construed to apply to *stationary firemen* in state hospitals nor to other persons regularly employed in state institutions, except mechanics, nor shall it apply to *engineers*, electricians and elevator men in the department of public buildings during the annual session of the legislature.

Note that the section excepts from its operation *stationary firemen* in State hospitals and *engineers*, electricians and elevator men in the department of public buildings. The exception must prove that *stationary firemen* and *engineers* who perform work similar to that done by the engineers in the department of public buildings are in other departments of the State service entitled to the benefits of section 3 of the Labor Law. Assuming that the duties of the engineer aboard the tug relate to the maintenance of the fire and to the running of the engine, he would, I take it, fall within the hours of labor and prevailing rate of wages provisions of the Labor Law. The same argument cannot be applied to the captain of the tugboat, but as he does in fact perform manual labor in steering the boat and is hired by the month, he also could reasonably be classified as a "mechanic, workingman or laborer who works for another for hire," though I do not feel so sure of that classification as in the case of the engineer, and yet the engineer also may perform many other duties which pertain particularly to navigation and not to the running of the machinery.

On the whole I should advise you to pay both men the prevailing rate of wages.

Yours very truly,
E. E. WOODBURY,
Attorney-General.

By C. T. DAWES,
Deputy Attorney-General.

(b) Applies to Mechanics Regularly Employed in State Institutions

March 25, 1915.

STATE HOSPITAL COMMISSION, *Albany, N. Y.*

GENTLEMEN.—You have brought to my attention an opinion rendered by Attorney-General Parsons, under date of November 20, 1914, in which it was held that electrical engineers employed in State hospitals are entitled to the prevailing rate of wages for like work in the locality.* The communication from your office of the 18th inst. seeks a reconsideration of that opinion, on the assumption that the intent of the Labor Law, section 3 thereof providing for the payment of the prevailing rate of wages on public work, was mis-

* For this opinion of Attorney-General Parsons, see Annual Report of Commissioner of Labor, 1914, pp. 806-809.

conceived when read in connection with section 50 of the Insanity Law, which fixes the wages of electrical engineers' assistants in State hospitals at \$82.00 per month; or otherwise that section 50 of the Insanity Law must have been entirely overlooked when the opinion of Attorney-General Parsons was drafted.

You first refer to the language of section 3 of the Labor Law wherein it reads as follows:

The wages to be paid for a legal days work as hereinbefore defined to all classes of such laborers, workmen or mechanics upon *all such public works*, or upon any material to be used upon or in connection therewith, shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the State where *such public work* on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used. Each such *contract* hereafter made shall contain a stipulation that each such laborer, workman or mechanic, employed by such contractor, sub-contractor or other person on, about or upon *such public work*, shall receive such wages herein provided for.

The view you take of the above provision (1) limits its application to employees engaged on public work *performed under contract*, and (2) denies its application to persons regularly employed in permanent positions for which salaries are fixed by law.

In answer to the assertion that the prevailing rate of wages provision is limited to employees performing work for contractors with the State or a municipality, I need only say that the statute as originally enacted by chapter 622 of the Laws of 1894, and as re-enacted in different form by chapter 415 of the Laws of 1897 (section 3), applied without a doubt to every employee working *directly* for the State.

- § 8. Hours to constitute a days work — Eight hours shall constitute a legal day's work for all classes of employes in this state, except those engaged in farm and domestic labor, unless otherwise provided by law. This section does not prevent an agreement for overwork for extra compensation.

This section applies to work for the state or a municipal corporation, or for contractors therewith.

The wages for such public work shall be not less than the prevailing rate for a legal day's work in the same trade or calling in the locality where the work is performed. Every contract for the construction of a public work, shall contain a provision that the same shall be void and of no effect unless such rate is paid by the contractor to his employees.

Thereafter, by Laws of 1899, chapter 567, the above section of the Labor Law was amended to include a direction that every *contract* with the State or a municipality, which might involve the employment of *laborers, workmen or mechanics*, should contain a stipulation that no more than eight hours' work would be permitted and then followed the injunction as to the prevailing rate of wages, in substantially the same form as it now appears and as you quote in your letter, namely,

The wages to be paid for a legal days work as hereinbefore defined to all classes of such *laborers, workmen or mechanics* upon all *such public work* or upon any material to be used upon or in connection therewith shall not be less than the prevailing rate for a days work in the same trade or occupation in the locality within the state where *such public work* on, about or in connection with which *such labor* is performed in its final or completed form is to be situated erected or used. Each such contract hereafter made shall contain a stipulation that each such laborer, workman or mechanic employed by such contractor, sub-contractor or other person on, about or upon *such public work* shall receive such wages herein provided for.

I appreciate that some foundation would lie, under the language of the section as amended in 1899, for believing the prevailing rate of wages provision was thereafter to be confined to work by employees for contractors with the State or a municipality and no longer apply to employees working directly for the State. But the Court of Appeals in *Ryan vs. City of New York*, 177 N. Y. 271, took no notice of such a distinction, construing the statute, after the amendment of 1899, as covering a street laborer employed directly by the City of New York. The prevailing rate of wages clause, therefore, applies to both kinds of employees, those of the State and those of a contractor doing work for the State (the latter since the statute was made constitutional in that respect by the constitutional amendment of 1905).

Turning now to the Insanity Law. Chapter 545 of the Laws of 1896, section 38, gave to the Lunacy Commission the power, with the approval of the Governor, Secretary of State and Comptroller, to fix the wages of all employees in State hospitals. This law of course superseded, in so far as State hospitals were concerned, the original prevailing rate of wages provision in the labor statute of 1894.

Thereafter the prevailing rate of wages provision was re-enacted in the Labor Law of 1897, chapter 415; and in 1900 both the Insanity Law, section 38 (chapter 380, laws of 1900) and the Labor Law, section 3 (chapter 298, laws of 1900) were amended. A possible inconsistency having probably been noted by the legislature, specific language was at that time inserted in section 3 of the Labor Law to take employees in State institutions out of the operation of the labor statute, subjecting them to the Insanity Law only, in regard to the amount of wages they should receive.

In 1905, (chapter 714) a new section, section 38-a, was added to the Insanity Law, which established the precise amount of the salaries and wages of hospital officers and employees. The pay of electrical engineers' assistants, first grade, was fixed at \$75.00 per month. Section 38-a was incorporated in the present section 50 of the Insanity Law in 1909, and some changes in the amounts to be paid employees have since been effected (chapter 43, Laws of 1912).

Following the year 1900, therefore, at which date employees regularly employed in State institutions were excepted from section 3 of the Labor Law, there could have been no question but that the Insanity Law was controlling. However, in 1913, by chapter 494, the words "except mechanics" were added to the clause in section 3 of the Labor Law, making it read:

But nothing in this section shall be construed to apply to stationary firemen in State hospitals nor to other persons regularly employed in State institutions, *except mechanics*.

This amendment clearly took the wages of mechanics regularly employed in State institutions out of the provisions of the Insanity Law and placed them within the terms of section 3 of the Labor Law.* That alteration in

* Subsequent to the date of this opinion of Attorney-General Woodbury, Insanity Law, § 50, has been amended by L. 1915, ch. 549, effective May 8, 1915, and by L. 1916, ch. 608, effective May 20, 1916; while Labor Law, § 3, has been amended by L. 1916, ch. 152, effective April 7, 1916. The amendment to Insanity Law, § 50, effected by L. 1915, ch. 549, added the sentence: "The provisions of this section with respect to the rate of wages to be paid employees in all positions named in the foregoing schedules shall supersede the provisions of any other general or special law."

the statute, I believe necessitated and necessitates now paying mechanics regularly employed in State institutions the prevailing rate of wages in the locality — which was the same conclusion reached in the opinion of the former Attorney-General which you submit for rehearing.

You are to determine as an administrative board whether the maintenance and extras paid to the electrical engineer were sufficient to make up the prevailing rate of wage which other workmen performing the same labor had or would receive in the locality where the particular hospital in which the work is being performed is situated.

The view of the former Attorney-General is likewise my view of the law. Mechanics perform no duties which are in their nature peculiarly hospital duties, and such may have been the reason for restoring them to the general provisions of the Labor Law. There is nothing in Senate Bill No. 1104, introductory 572, to which you allude, which would suggest a legislative construction to the contrary, for an examination of section 215 discloses that subdivision 4 thereof repeats the same exception with respect to mechanics in State institutions as is now contained in the present law.

Yours very truly,

E. E. WOODBURY,
Attorney-General.

EXTRAORDINARY EMERGENCY (§ 3)

(a) Officer Most Familiar with Facts to Certify*

October 13, 1915.

HON. EDWIN DUFFEX, *State Commissioner of Highways, Albany, N. Y.*

DEAR SIR.—Receipt is acknowledged of your letter of October 8th relative to certification as to the existence of extraordinary emergency permitting employment of laborers more than eight hours in highway work. I have previously given some consideration to this question and enclose two copies of a letter written December 22d, 1914, so that you may send one to the State Industrial Commission.

It seems to me the question narrows itself down to just this: A question of fact is presented. The Highway Department or whatever other department is concerned in a particular contract is in the best position to ascertain the facts. Since the law is silent as to who shall authorize the contractor to make the extra employment, it is clear that the officer most familiar with the facts should make the certificate. In the case presented, it is the State Highway Department, and I therefore advise that in contracts supervised by your department the State Commissioner of Highways shall in all cases make the certificate authorizing the contractor to employ his laborers more than eight hours, where an extraordinary emergency does, as a fact, exist. Certification should be made to the contractor, the Industrial Commission and the State Comptroller, so that they may be apprised of your decision. So much for the administrative feature of the matter.

* Compare opinion of December 22, 1914, in Annual Report of Commissioner of Labor, 1914, p. 305.

Of course the Industrial Commission is authorized under the statute to enforce the Labor Law, and, in some cases, to prosecute violations. However, a decent consideration for the coordinate departments of the State government would, of course, require the Industrial Commission to present to the officer making the certification any additional facts which might not have been before him at the time he acted, and thus give to him an opportunity to revoke or modify the certification as the particular facts may require.

If there is any further advice on this subject which you require, I shall be glad to render it at your request.

Very truly yours,
E. E. WOODBURY,
Attorney-General.

(b) State Hospital Mechanics Are Subject to Superintendent's Call

January 20, 1915.

STATE HOSPITAL COMMISSION, *Albany, N. Y.*

GENTLEMEN.—In reference to your request for opinion of the 16th inst. in reference to the status of mechanics employed by the State Hospitals, I beg to refer you to Volume 2 of the Attorney-General's report for 1913, at pages 453 and 656.*

Very truly yours,
E. E. WOODBURY,
Attorney-General.

January 29, 1915.

STATE HOSPITAL COMMISSION, *Albany, N. Y.*

GENTLEMEN.—Supplementing my letter of the 20th, as requested in yours of the 22d, in view of the additional facts stated, I beg to advise that a Superintendent of a State hospital does not exceed the provisions of the Labor Law in calling on mechanics for services made necessary as a result of unusual emergencies occurring outside of regular hours of duty.

By chapter 494 of the Laws of 1913, Section 3 of the Labor Law was amended in relation to mechanics working in State institutions so as to make the eight-hour provision applicable to them, but this places them in the general class of laborers concerning which said section makes an exception, as follows:

In cases of extraordinary emergency caused by fire, flood or danger to life or property.

In reference to the necessity of engaging an additional night force of mechanics for the sole purpose of sleeping on the grounds for emergency service, I do not deem that this is justified.

* The opinions here referred to may also be found in the Annual Report of the Commissioner of Labor for 1913, pp. 260-272. Compare above, p. 387.

The Insanity Law directs that a Superintendent of a State hospital may

Give such orders and instructions as he may deem best calculated to insure good conduct, fidelity and economy in every department of labor and expense. (Sec. 45, subd. 5).

In accordance with the authority given by this section the rule now in force is

No employe shall be allowed commutation for quarters where accommodations are available in the hospital * * *. (Form 394, General Rules, Sec. 2).

It would seem therefore, that mechanics could be required to reside at a State hospital to better subserve the safety and welfare of the patients and the protection of the hospital property, and, if occasion for emergency service caused by fire, flood or danger to life or property should arise, that the services of mechanics are available, in the discretion of the superintendent, without conflicting with the eight-hour provision of the Labor Law.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

DAY OF REST LAW (§ 8-a)

(a) Amendment by L. 1915, ch. 648, Supersedes Amendments by L. 1915, chs. 321 and 357

June 1, 1915.

HON. JAMES M. LYNCH, *State Industrial Commission, Capitol, Albany, N. Y.*

DEAR SIR.—I beg to acknowledge receipt of your favor of May 27th calling to my attention the fact that chapter 648 of the Laws of 1915, which became a law on May 18th, amends the Day-of-Rest Law by permitting the Industrial Board to make variations from the requirements of this law (section 8-a of the Labor Law). You further call my attention to the fact that previously chapter 321 of the Laws of 1915, which became a law on April 17, 1915, and chapter 357 of the Laws of 1915, which became a law on April 26, 1915, also amend this same section 8-a of the Labor Law with reference to paragraphs "e" and "f" of subdivision 2 thereof respectively; but that the particular amendments contained in these earlier enactments were not repeated in chapter 648, which became a law on a later date.

I find that chapter 648 amends the entire section and states completely the language of the section. Inasmuch as this is the last expression of the Legislature upon this subject and covers the entire field, all previous amendments of this section or of parts thereof must be deemed to have been superseded thereby.

It must be remembered, however, that chapters 321 and 357 were in full force and effect from the time of enactment down to the time of the passage and approval of Chapter 648.

Respectfully yours,

E. E. WOODBURY,
Attorney-General.

(b) Applies to Heating Plants of Railroad Construction or Repair Shops

A heating plant used in connection with a repair shop of a public service corporation is part of a factory, and employees engaged in maintaining fires therein must be allowed one day of rest in seven.

INQUIRY

In the car repair shops of the Brooklyn Rapid Transit Company the Labor Department has ascertained that certain employees whose duty it is to maintain fires are being kept at work twelve hours a day and seven days a week, and my opinion is requested as to whether the company is not violating section 8-a of the Labor Law which provides for one day of rest in seven for employees in factories and mercantile establishments.

OPINION

Section 8-a of the Labor Law in the parts essential to the determination of this question, is phrased as follows:

8a. One day of rest in seven. (1) Every employer of labor engaged in carrying on any factory or mercantile establishment in this state shall allow every person, except those specified in subdivision two, employed in such factory or mercantile establishment at least twenty-four consecutive hours of rest in every seven consecutive days. No employer shall operate any such factory or mercantile establishment on Sunday unless he shall have complied with subdivision three. Provided, however, that this section shall not authorize any work on Sunday not now or hereafter authorized by law.

2. This section shall not apply to

- (a) Janitors;
- (b) Watchmen;
- (c) Employees whose duties include not more than three hours' work on Sunday in (1) Setting sponges in bakeries; (2) Caring for live animals; (3) *Maintaining fires*; (4) Necessary repairs to boilers or machinery.

To proceed logically we should first observe that a railroad construction or repair shop is a factory. Section 2 of the Labor Law so connotes where it defines a factory to be

any mill, workshop, or other manufacturing or business establishment and all buildings, sheds, structures or *other places used for or in connection therewith*, where one or more persons are employed at labor, except power houses, generating plants, barns, storage houses, sheds and other structures owned or operated by a public service corporation, *other than construction or repair shops*, subject to the jurisdiction of the public service commission under the public service commissions law. Work shall be deemed to be done for a factory within the meaning of this chapter whenever it is done at any place, *upon the work of a factory* or upon any of the materials entering into the product of the factory, whether under contract or arrangement with any person in charge of or connected with such factory directly or indirectly through the instrumentality of one or more contractors or other third persons.

A railroad repair shop is therefore a factory, and a heating plant whether in the building or in a separate structure is part of the factory, because it is a "place used for or in connection with" a factory.

We have, then, these firemen or engineers so-called working in a factory, but not, it is true, engaged in work upon the product of a factory. That

circumstance is immaterial, for it will be noted that section 8-a, subdivision 2, excepts from the operation of the statute various persons who may be found working in factories and yet not actually engaged in factory work, such as "janitors, watchman and employees whose duties include not more than three hours' work on Sunday in * * * maintaining fires." Obviously, if firemen in factories may work three hours on Sunday by permission of the statute, that is the extreme limitation of hours for such work in factories on that day by employees working also every other day in the week. Bear in mind in this connection, I do not mean to pass upon the question, not propounded, whether three hours is the extreme limitation for work on Sunday by any fireman in any factory. The deduction above made is simply argumentative of a legislative intent in subdivisions 1 and 2 to classify employees maintaining fires for factory buildings as employees of a factory; and should it be a matter of necessity, and not prohibited by our statute, that some of them shall work all day on Sunday, those employees must be allowed twenty-four hours' rest on some other day of the week.

I have not entered upon the discussion of nor attempted to decide that the precise place of employment, i. e., a heating plant, is or is not a distinct factory in itself, thinking it sufficient to determine that the heating plant in the instance before me is part of a factory and the employees therein and the employer subject to the provisions of section 8-a of the Labor Law.

Dated, April 15, 1915.

E. E. WOODBURY,
Attorney-General.

To HON. JAMES M. LYNCH, Commissioner of Labor, Albany, N. Y.

CASH PAYMENT OF WAGES (§ 10)

(a) Subjection of Piece Workers to Deductions for Defective or Improper Work

November 22, 1915.

HON. V. T. HOLLAND, State Industrial Commission, Department of Labor,
Albany, N. Y.

DEAR SIR.—Receipt is acknowledged of your letter of November 20th with enclosures. I have also talked with Richard J. Lynch, special investigator in this case, and he has brought out even more forcibly certain phrases in regard to this situation.

As I understand it, the situation is this: Persons are working in the city of Amsterdam in a carpet factory. They are paid by the piece for the work they do. If, upon examination of their work, under what seems to be a very equitable arrangement, it is found that a piece is defective or is not done right, so much is deducted from what is usually paid for a complete and proper piece of work. This arrangement, in my opinion, does not violate section 10 of the Labor Law requiring that wages be paid in cash and without deduction. I see in this arrangement a contract between employer and employee which provides somewhat as follows:

I, the employer, will pay you, the employee, so much for each piece of goods you make in a proper manner. If it is not made in a proper manner then I will pay you what it will be worth to me under an arrangement by which this value will be ascertained to the satisfaction of both of us.

There is no deduction of wages here. Rather, there is the carrying out to the letter an arrangement as to how much will be paid, contingent entirely upon the employee's performance.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

(b) Subjection of Benefit Society Members to Deductions for Dues

OFFICE OF THE COMMISSIONER OF LABOR, ALBANY

February 19, 1915.

HON. EGBURT E. WOODBURY, *Attorney-General, Capitol, Albany, N. Y.*

DEAR SIR.—I am attaching hereto copy of opinion previously rendered by the Attorney-General in reference to the cash payment of wages. I would direct your attention to the concluding portion of that opinion.* I now ask for opinion relative to the application of the law to benefit societies of different kinds conducted by employers and employees of factories and mercantile establishments. Broadly stated, these beneficial associations fall in three classes:

First. Those associations formed and managed by the employer, and wherein membership is compulsory and dues are deducted by the employer from the wages when paid. Benefits also controlled by employers.

Second. Those associations that are voluntary as to their membership, and wherein the employer donates a certain amount to the treasury, generally equal to the sum paid in by the members as dues, and where the employer exercises a predominating influence through membership on the Board of Trustees or as expressed in the by-laws has control over the affairs of the association including the payment of benefits to the members and the amounts of such payments.

Third. Those associations voluntary as to membership, wherein on request of the association the employer collects dues on pay-day and acts as treasurer for the association, but where the association by direct selection controls its affairs through a Board of Trustees, including the payment of benefits and the amount of such payments.

There are many such associations in this State, some of which have been in existence for a number of years, and it is desirable at this time owing to a question that has arisen in a recent case reported to the Department of Labor that the application of the law (sections 10 and 24) shall be clearly defined.

Awaiting your reply, I am,

Sincerely,

JAMES M. LYNCH,
Commissioner.

* For this opinion of Attorney-General Parsons, see Annual Report of the Commissioner of Labor for 1914, pp. 310, 311.

March 31, 1915.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.*

DEAR SIR.—I refer again to your letter of February 19th in regard to the application of the weekly payment law, where the employer withholds wages to apply upon benefit society dues.

Senator J. Henry Walters was interested in this question, and I believe, inspired the request for an opinion. He asked that he might be heard upon the question before this department took any action, and for that reason I have not answered your letter until to-day, when Senator Walters was able to submit his views.

It is my opinion that your inquiries require no substantial departure from the opinion expressed in Attorney General Parsons' letter of December 31, 1914. In reply to your first question, it is my opinion that this deduction is prohibited by statute. In this case membership is compulsory and the association is managed by the employer. The second and third inquiries indicate that the wages are withheld with the consent of the employed. The mere fact that, as stated in the second inquiry, the employer exercises the predominating influence, has no particular bearing. The controlling fact is that the employe is not required to be a member of the association. If he becomes a member of the association he must know that the employer is instructed to retain the dues out of his wages. I am of the opinion, therefore, that the deductions made as described in the second and third inquiries, are not a violation of the statute.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

ALIEN LABOR LAW (§ 14)

(a) Aliens, Once Employed, Need Not Be Discharged to Make Way for Citizens

Where, at the time aliens are hired for labor on public construction work, citizens are not available, such aliens may be continued in their employment, even after citizens become available.

Where aliens were hired in violation of the law as it existed before its amendment this year, their employment should be discontinued, unless citizens are not available. If citizens are not available the employment of the aliens may be continued under new contracts of hiring.

INQUIRY

The Commissioner of Labor submits an inquiry in connection with the administration of the recently amended section 14 of the Labor Law:

Investigation of the first complaint reaching me shows that aliens now employed commenced work last summer and have been given work during the winter, weather permitting, with preference this spring to citizens when any additional employees were needed. The contention of the contractor is that it is not neces-

nary to discharge the aliens at present employed, even though citizen labor may be obtained.

"Will you please give me your opinion on the application of the law in this respect; if citizen labor is not available and aliens are employed, and citizen labor thereafter becomes available, must the aliens be discharged in order to make way for citizens?"

OPINION

In the recent case of *People v. Crane*, 214 N. Y. 154, Judge Cardozo said of the prohibition in section 14 of the Labor Law, in upholding the constitutionality of the statute:

The prohibition of alien labor in this statute is, however, unrestricted. It applies to the most temporary and occasional service, and to the lowest grades of labor.

This absolute prohibition has now been limited to a preference of citizens for employment on public construction work by the amendments in chapter 51 of the Laws of 1915 as follows:

Sec. 14. Preference in employment of persons upon public works.—In the construction of public works by the state or a municipality, or by persons contracting with the state or such municipality, preference shall be given to citizens over aliens. Aliens may be employed when citizens are not available.

The preference approximates that given by the original Alien Labor Law (chapter 380, Laws of 1889). As long as the law, in one form or another, has been on our statute books, and throughout the elaborate consideration given in the briefs of counsel and in the learned opinions of the courts in the *Crane* case, except as quoted from Judge Cardozo, statement as to the specific and particular application of the law seems neglected. (See *People v. Warren*, 13 Misc. 618; *People v. Ludington Sons*, 74 Misc. 363). The exceptional character of its provisions also deprives us of extensive resort to analogy or reliance upon decisions of other jurisdictions.

There should be little difficulty with the question of continuance in employment of aliens employed in conformity with the amendment since the time it became effective. The preference given to citizens is intended to be availed of at the time the employment is open. If an alien is accepted because citizens are not available, his employment may continue, although at a later time a citizen might present himself for the particular employment of the alien. The statute nowhere indicates that aliens are to be hired simply as temporary help or as stop gaps. Its terms will not be extended by interpretation to provide a preference manifestly working confusion, unless that intent may not be avoided because of expressions presented upon the face of the statute.

The analogy of civil service employment supports this conclusion. The courts have refused to extend a statutory preference beyond the original appointment. Judge Cardozo said in *People ex rel. Davison v. Williams*, 213 N. Y. 130, 134:

A laborer holds a position, though he does not hold an office, and it is possible to abolish his position though other laborers are retained. If a hundred laborers are employed, and the budget makes provision for ninety, it is necessary to reduce the positions by ten; and men who are relieved from duty for that reason, owe their suspension to the termination of their positions just as truly as if their functions were extraordinary or unique. *The real question is whether the statute imposes a duty on the appointing power to terminate their positions as a last resort, after first sacrificing the positions held by other and less favored classes. We think the duty does not exist.*

It is true that the statute provides that "aliens may be *employed* when citizens are not available," but this does not carry the implication that aliens must be *discharged* if at any future time citizens become available. It is unnecessary to enlarge upon the difficulties, hardships and confusion that would result from such an implication.

The question of the continuance of such aliens as were originally employed in disregard of the prohibition of the former law is somewhat more difficult. Their employment was illegal at its inception. The amendment has not sanctioned it; for we may assume, under the form of the inquiry, that these aliens were employed first, not only in utter defiance of the existing statute, but without any regard for the availability of citizens at that time. When the amendment took effect on March 11th their employment was not legalized. Citizens were entitled to assert their preference to the exclusion of the aliens unlawfully employed. The provision of the law for bringing existing contracts into conformity with the amendment does not affect this conclusion, since the original hiring did not comply with the requirements of either the new or the former law. The continuance of such aliens in employment might, however, be legalized under new contracts of hiring, providing that at time these are made, citizens are not available.

Some inquiry into the nature of these contracts of employment suggests itself. I assume, however, that the hiring is continuous, even though either party is entitled to end it, from day to day or from week to week. Such employment is not interrupted, either in law or in fact, by regularly recurring termination and renewal, operating automatically and without action by the parties, at any particular time of the day or week.

I am, therefore, of the opinion that where aliens are hired at a time when citizens are not available, such aliens may be continued in their employment, although citizens may later be obtained. Aliens hired before the new law took effect, in violation of the statute then existing, and without regard for the availability of citizens, should not be continued in employment, if citizens are now available. They may be continued in employment, in accordance with the amended statute, under new contracts of employment.

It is recognized, of course, that this readjustment of the relation between the master and servant may take place in the most casual manner. Emphasis is only laid on the requirement that there be an appreciable effort for an honest compliance with the law before a new relationship or contract is entered into.

Dated, *March 31, 1915.*

E. E. WOODBURY,
Attorney-General.

TO HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.*

(b) Modification of Existing Contracts in Accordance with Amendment of 1915

April 5, 1915.

CHARLES F. MURPHY, JR., *Insurance, 75 William St., New York City.*

DEAR SIR.—Replying to your letter of March 30th in which you inquire whether it is compulsory that existing contracts embody the new alien Labor Law, chapter 51 of the Laws of 1915. In the case of contracts existing on the day upon which the recent amendment to the Labor Law took effect no change to embody that amendment is compulsory. If, however, the parties to the contract including the sureties other than the State or municipality consent to a change embodying the amendment, it is mandatory upon the State or municipality to modify the contract so as to conform to the provisions of section 14 of the Labor Law, as amended.

In the case of contracts entered into after the date upon which the said amendment took effect, it is of course compulsory that such contracts should conform to the provisions of section 14 as amended.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

By EDMUND H. LEWIS,
Deputy Attorney-General.

April 14, 1915.

HON. LEWIS F. PILCHER, *State Architect, Albany, N. Y.*

DEAR SIR.—Receipt is acknowledged of your letter of April 12th, relative to the change in contract for water supply at Yorktown Heights, to embody the provisions of the amended Alien Labor Law.

It is not necessary under the statute that a State officer take the initiative in making this change. However, if the contractor and his sureties propose the change the State officer having charge of the contract is without power, under the law, to withhold his approval.

My examination of the proposed alteration in the contract discloses nothing objectionable.

The enclosures are returned herewith.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

INDUSTRIAL COUNCIL (§ 40-a)

Secretary ex-officio May be Elected Chairman

October 15, 1915.

MR. H. D. SAYER, *Secretary, Industrial Commission, Albany, N. Y.*

DEAR SIR.—Under date of October 9 you made inquiry whether it would be inconsistent with the law if the Industrial Council provided by section 40-a of chapter 674 of the Laws of 1915, should elect the Secretary of the Indus-

trial Commission, who is also Secretary to the Industrial Council by force of the same act, to the position of Chairman of the Council.

There is nothing in the law creating the offices of Secretary of the Industrial Commission and Secretary to the Industrial Council, which can be construed as prohibitive of such officer also acting as Chairman of the Industrial Council, and I am unable to see how such positions are incompatible. It is unusual for the chairman of a board or commission to also act as the secretary of such body, but if it is deemed advisable and desirable by the Industrial Council to elect you as the presiding officer of their deliberations, and the head of their council, notwithstanding the fact that you are the secretary thereof, there is no express provision of law that would prevent it. The chairman of the council cannot be a member of the council, neither is he allowed a vote even in the event of a tie in the council, but he is permitted to participate in the deliberations and discussions thereof.

I do therefore advise you that it would not be inconsistent with the law if the Industrial Council should conclude to elect the secretary of the board to the office of chairman thereof.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

VARIATIONS AND REVIEW (§§ 52-a, 52-d)

Effect of § 52-a, Enacted by L. 1915, ch. 719, upon §§ 52-a and 52-d, Enacted by L. 1915, ch. 674.

June 1, 1915.

HON. JAMES M. LYNCH, *State Industrial Commission, Capitol, Albany, N. Y.*

DEAR SIR.—I beg to acknowledge the receipt of your further favor of May 27th calling my attention to the Spring bill establishing the State Industrial Commission which became chapter 674 of the Laws of 1915 on May 22, 1915, and also to what is known as the Wagner bill, which became chapter 719 of the Laws of 1915, on May 24th, and which contains an amendment of the Labor Law, by adding a new section 52-a, entitled "variations."

It appears from your letter that the Spring bill contains a section known as section 52-d, which is likewise entitled "variations," and covers the same subject in a slightly different way. The Spring bill further contains a section 52-a which would not conform to the subject matter contained in section 52-a of the Wagner bill, because it relates to the subject of "review by the Commission."

In view of the confusion of section numbers and titles you have requested my opinion as to the effect of the passage of the Wagner bill (chapter 719) on sections 52-a and 52-d as found in the Spring bill.

Chapter 719 being of later enactment must be given full force and effect upon the subject of "variations" and must be deemed to have been the last expression of the Legislature on that subject. It must therefore be deemed to have superseded the provisions of section 52-d of the Spring bill (chapter 674).

The only question remaining is as to its effect upon section 52-a of chapter 674. Clearly it was not the intent of the Legislature to supersede section 52-a of the Spring bill which related to "review by the Commission" and the reading of chapter 719 clearly indicates that it was not the intent of the Legislature to amend that section, but to add a new section. The language used in chapter 719 is as follows:

Section 1. Chapter thirty-six of the laws of nineteen hundred and nine, entitled 'An Act relating to labor, constituting chapter thirty-one of the Consolidated Laws,' as amended, is hereby amended by adding after section fifty-two thereof a new section to be section fifty-two-a to read as follows:

§ 52-a. Variations, etc.

It is my conclusion therefore that you must deal with two sections 52-a, one relating to review by the Commission and the other relating to variations, and that section 52-d must be considered as superseded by section 52-a added by chapter 719. The numbering of these sections is unfortunate but not important and can be cleared up by the next Legislature.

Very respectfully yours,

E. E. WOODBURY,
Attorney-General.

TUNNELS (§§ 119, 120)

The Public Service Commission's Jurisdiction Relative to "Cut and Cover" Subway Construction in New York City is Exclusive.

November 5, 1915.

STATE INDUSTRIAL COMMISSION, *Albany, N. Y.*

GENTLEMEN.—Your letter of October 23, 1915, asks my view as to whether the Labor Law, sections 119 and 120, has placed upon the Industrial Commission any duties with respect to the safety of workmen engaged in the "cut and cover" subway construction in New York City.

I have carefully examined the Rapid Transit Acts in connection with the Labor Law and I am inclined to believe that the Public Service Commission has exclusive jurisdiction with respect to the inspection and safety of this form of subway construction.

The word "tunnel" commonly means a subterranean passage constructed without removing the superincumbent earth. This I think is the meaning carried by sections 119 to 136 of the Labor Law, for various phrases throughout those sections refer to caissons and the use of compressed air to sustain life, thereby conveying the impression that tunneling proper and not the cut and cover method of construction was in the mind of the Legislature.

Furthermore when the word "tunnel" and other provisions concerning tunnel construction were first inserted in the statute (amendment of 1907, chapter 399), the first cut and cover subway was in operation, but there were in the course of construction no less than nine or ten sets of railroad tunnels on Manhattan Island and under the East and North rivers in some of which serious accidents had already occurred. These extensive tunneling operations were, I believe, the incentive for the legislation of 1907 and that statute had reference only to that method of construction.

If the sections of the Labor Law under discussion do pertain to the safety of employees under the cut and cover construction, the Labor Department would have jurisdiction over the finished cut and cover subways, for they would still be tunnels—a conclusion which would be in direct conflict with the provisions of the Public Service Commissions Law and the Rapid Transit Acts which confer such jurisdiction upon the Public Service Commission.

Yours very truly,

E. E. WOODBURY,
Attorney-General.

EXPLOSIVES (§§ 230-239-a)

State Arsenal and Armories Are Not Subject to Labor Law Regulations and Restrictions

June 5, 1915.

FRANKLIN W. WARD, ESQ., *Secretary, State Board of Armory Commissioners, Albany, N. Y.*

DEAR SIR.—Receipt is acknowledged of your letter of May 29th, in which you ask whether article 15-a of the Labor Law relating to explosives, as added by chapter 234 of the Laws of 1915, applies to the military establishment of this State.

The provisions of this statute are very similar to those formerly incorporated in the Insurance Law and administered by the State Fire Marshal. It is well established that State institutions will not be deemed comprehended by general regulative laws, unless the statute specifically indicates that the matters under the direct control of the sovereign shall be affected by the statute. This rule of construction applies with equal force in this case, where the military establishment is under the direct command of State officers. Further than this the narrow application of the definitions "building," "person," given in the statute, suggests that it was purposely intended to exclude governmental activities.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

HOURS OF GROCERY EMPLOYEES IN CITIES OF THE FIRST CLASS (Public Health Law, § 236-a)

State and City Health Authorities to Enforce

May 11, 1915.

HON. JAMES M. LYNCH, *Commissioner of Labor, Albany, N. Y.*

DEAR SIR.—Answering your letter of May 4, 1915, with reference to section 236-a added to the Public Health Law by chapter 343 of the Laws of 1915, and which provides a limitation upon the working hours of employees over sixteen years of age in grocery stores in cities of the first class, I would

say that the Legislature in its desire to have the statute considered constitutional as a health measure within the police power, has, by placing the statute in the Public Health Law, imposed the duty of its enforcement upon the State Health Department by section 4 of the Public Health Law, and upon the health departments of the cities under the powers conferred in their charters.

The Labor Department has jurisdiction only over the enforcement of the Labor Law as that duty is defined in sections 21 and 172 thereof.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

GARNISHMENT OF WAGES (Code of Civil Procedure, § 139)

Actual Drawing of \$12 a Week by the Employee is Requisite

August 12, 1915.

MR. J. M. SWARTHOUT, *Justice of the Peace, Bolivar, N. Y.*

DEAR SIR.— Replying to your letter of August 11th, I beg to advise that in my opinion, in order to subject a man's wages to garnishee, he must be actually drawing \$12.00 a week. It would not do if he were being paid only for a few days at the rate of \$12.00 a week.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

SALE OF PRODUCTS OF CONVICT LABOR (Constitution of New York, Art. III, § 29)

A contract to furnish electricity produced and generated by convict labor at Clinton prison, to the residents of the village of Dannemora for residential and individual purposes would be illegal and unconstitutional, but electricity so produced can be furnished for public purposes to the village of Dannemora, that being a political division of the State.

INQUIRY

R. G. Elliott, President of the village of Dannemora, has requested my opinion as to whether a contract or arrangement could be legally made permitting the furnishing by Clinton prison of electricity generated at the dynamo owned by the State, and operated at the prison, to the village and residents of Dannemora.

OPINION

I assume that the dynamo at Clinton prison is run and operated more or less by convicts and inmates of such prison under sentence thereto.

Section 29 of article III of the Constitution provides in part that no person "In any prison, penitentiary, jail or reformatory shall be required or allowed to work while under sentence thereto, at any trade, industry or

occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation."

Sections 170 to 175 inclusive, of the Prison Law, also prohibit the making of any contract by which the labor or time of any prisoner in any State prison, penitentiary or jail shall be contracted for, let, farmed out, given or sold to any person, firm, association or corporation except to the State or some political division thereof, and it is further provided in section 170, "that the convicts in such penal institution may work for, and the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof."

This last quoted provision would seem to indicate that a contract made exclusively with the village authorities for electricity, to be used solely for village purposes, would be permissible, but the furnishing of electricity produced and generated by convict labor to the residents of such village would certainly be within the inhibitions of the Constitution.

I am, therefore, of the opinion that electricity which is produced by convict labor could not be sold to the inhabitants of the village, for private and individual purposes, and that any contract made for the sale of electricity so produced, to such inhabitants would be illegal, but a contract made with the village for supplying it with street lights, and lights for public places within the corporate limits owned by such village, would be permissible under the provisions of section 170 of the Prison Law.

Dated, *May* 15, 1915.

E. E. WOODBURY,
Attorney-General.

To HON. R. G. ELLIOT, *President Village of Dannemora, Dannemora, N. Y.*

CONVICT DEPOSITS AND SAVINGS (Prison Law, §§ 125, 134, 137)

A convict's deposits and savings while he is in prison can only be paid to him with the approval of the Superintendent of State Prisons for disbursement by the agent and warden, or the superintendent of a reformatory.

Hon. John B. Riley, Superintendent of Prisons, under date of September 9, 1915, has asked for an opinion as to the right of inmates of the several state prisons to demand and have paid to them for their own use any funds standing to the credit of such inmates while still in prison, and also whether such funds can be withheld from prisoners if demand is made by such prisoners while still working out their sentence.

OPINION

By the letter of inquiry I am informed that "by permission of former superintendents and wardens the custom has been established at the different prisons whereby prisoners are allowed to purchase a limited quantity of supplies from their own funds on the approval of the warden, the return of such funds to the prisoner being provided for by an estimate against the

fund forwarded each month for my approval in accordance with the provisions of section 125," and that it appears to be the understanding of the inmates and some officers that the funds standing to the credit of a prisoner cannot be withheld from the prisoners if demanded by them for the purchase of supplies for their own use while still in prison.

By section 134 of the Prison Law, the agent and warden of each prison shall take charge of any money or articles brought to the prison by a convict and the money is required to be deposited by such warden, and an account kept of the same, "which money and other articles, whenever the convict from whom the same was received shall be discharged from prison, *or the same shall be otherwise legally demanded*, shall be returned by the said agent or warden to such convict or other person legally entitled to the same;" with interest.

Section 125 of the same law, which is entitled "deposit of convicts' deposits and earnings," makes specific provision for the deposit by the agent and warden of "All the moneys received by him as such agent and warden, as convict deposits and miscellaneous earnings, and send to the Comptroller and also to the Superintendent of State Prisons, weekly, a statement showing the amount so received and deposited, and when and from whom and for what received, and the days on which such deposits were made." That part of such section which applies more particularly to the subject under consideration reads as follows: "The moneys so deposited by such agent and warden as convict deposits and miscellaneous earnings shall be subject to his check or draft only when countersigned by the comptroller. The comptroller shall countersign such check or draft only when the same is drawn for the payment of an expenditure included in an estimate approved by the superintendent of state prisons, and for the purposes hereinafter stated. The agent and warden of each prison shall, on the first day of each month, make an estimate and detailed statement of all moneys that will, in his judgment, be required for clothing, allowance and transportation of United States prisoners, and to repay to convicts moneys on deposit to their credit, and the interest thereon, as provided by section one hundred and thirty-four of this chapter, during such month, which estimate shall be forwarded to the superintendent of state prisons, who may revise the same by reducing the amount thereof, and he shall certify that he has carefully examined the same, and that the sums stated in said estimate are actually required for the purposes above stated, and he shall thereupon deliver the said estimate, so certified, to the comptroller."

The only method provided for the withdrawal of funds which stand to the credit of a prisoner is by check or draft of the agent and warden countersigned by the Comptroller and then only after the same has been included in an estimate approved by the superintendent of prisons and for the purposes mentioned in the portion of the section above quoted.

It is provided by section 187 of the Prison Law that the amount of any surplus arising out of the prisoner's labor may be paid to him during his imprisonment *only* upon the certified approval of the Superintendent of State Prisons for disbursement by the agent and warden.

It thus appears to have been the clear intent of the Legislature not to allow any funds standing to the credit of a prisoner to be paid to him while he is in confinement unless such payment is submitted to or approved in some

manner by the Superintendent of State Prisons and the agent and warden of the prison in which he is confined thus providing for a double check and safeguard against the withdrawals of any prisoner of his funds while in confinement.

To construe the words "otherwise legally demanded" in section 134 as applying to the demand made by any convict at any time, to make demand and have returned to him whatever funds he may have standing to his credit, would be in direct conflict with both the letter and the spirit of the Prison Law.

The statute casts the duty of determining what moneys shall be paid to the prisoner while in confinement upon the superintendent in conjunction with the agent and warden, and such officers are charged with the responsibility of not only keeping the same, and returning it to the convict upon his discharge, but with the expenditure of any part of it while he is in prison.

The money standing to the credit of a convict could be legally demanded from the prison authorities by the legal representatives of the prisoner in the event of his death, and there might be other contingencies arise whereby it could be legally demanded, and it seems to have been the intention of the Legislature to provide for just such contingencies.

If a prisoner could demand and have his money returned to him at any time according to his whim or caprice, the several provisions of the statute providing for its safe keeping and return to him are simply useless, as but few, if any, of the convicts would allow their money to remain under the control of the prison officials if he could demand its payment to him at any time.

I am clearly of the opinion that neither the money nor articles brought to the prison by a convict upon his commitment thereto, nor any of his earnings can be paid to him except with the approval of the Superintendent of State Prisons and also the agent and warden of the prison, and all money standing to the credit of a prisoner should be withheld from him until the provisions of the Prison Law relative to the payment of such funds to such prisoner have been fully complied with.

Dated, *September 5, 1915.*

EGBERT E. WOODBURY,
Attorney-General.

To HON. JOHN B. RILEY, *Superintendent of State Prisons, Albany, N. Y.*

MAINTENANCE OF FAMILIES AT STATE INSTITUTIONS (State Charities Law, § 45)

The employees and officers of State institutions reporting to the Fiscal Supervisor, other than the superintendents, medical officers, adjutants, quartermasters and stewards, are required to pay for the rooms and maintenance of their families living in or maintained by such institutions, at the rates fixed by the Comptroller and Fiscal Supervisor and approved by the Governor for such maintenance, and it is the duty of the managers of such institutions to compel and enforce the payment of such maintenance.

INQUIRY

The Board of Managers of the State Agricultural School at Industry, New York, have passed a resolution asking for the opinion of the Attorney-General as to the maintenance of minor children and others in the families of employees and officers of the school, and also ask that if such officers and employees are liable for the maintenance of their families, what method should be adopted to collect the amounts payable for such maintenance, and whether it can be taken from their checks.

OPINION

It appears by the letter of Samuel P. Moulthrop, the Secretary and Treasurer of the Board of Managers at Industry, N. Y., that in some sixteen of the supervising families of the institution, there are one or more minor children; that a majority of the Supervisors refuse to pay for the maintenance or at least pay no attention to the bills; and if it is decided that such Supervisors are liable for the maintenance of such children, the further inquiry is made as to what method should be adopted to collect the same, and whether it can be taken from their checks.

That portion of section 45 of the State Charities Law which applies to the subject under consideration reads as follows:

No persons, other than the officers and employees of such institutions, and the families of the Superintendents, Medical Officers, Adjutants, Quartermasters or Stewards, necessarily residing therein, shall be allowed rooms and maintenance, except at a rate fixed by State Comptroller and the Fiscal Supervisor with the approval of the Governor.

There is no doubt or uncertainty about the foregoing language and the statute clearly excludes from gratuitous maintenance all the families of the officers and employees of such institutions except those of the superintendents, medical officers, adjutants, quartermasters and stewards. It appears that the rates for the members of such families other than the officers above specified, have been established by the Comptroller and Fiscal Supervisor, with the approval of the Governor, and it is the duty of the managers of such institutions to see that the amounts provided in such schedule of rates are paid, as often as the officer or employee is paid.

I do not think the managers would have the right, arbitrarily, to deduct the amount of the maintenance of any member of a family from the check of the person who is liable therefor, without the consent of such employee, but each of such persons should provide in some manner for such maintenance, and if such employee refuses to allow the amount which he or she is liable for as the maintenance of some member or members of his or her family to be deducted from the amount payable to them upon each payday, and retained by the managers in payment of such maintenance, and refuses to make any provision for the payments, then it would be the duty of the managers to discharge or remove them from the service unless they make agreement and provision for the payment of all future maintenance and in the future, whenever any new employee is taken on, the provisions of the statute should be distinctly stated to him, together with the schedule of rates which have been fixed, and a definite understanding and agreement made in reference to the maintenance of the families of all those employees

who come within the provisions of the above quoted law, and just how it should be paid and the agreement should be lived up to. Such a course will obviate further trouble in the future, but is clearly the duty of the managers to see that the statute is complied with and the amounts collected and accounted for as provided by section 17 of the State Finance Law.

Dated, *June* 11, 1915.

E. E. WOODBURY,
Attorney-General.

To the MANAGER OF AGRICULTURAL AND INDUSTRIAL SCHOOL, *Industry, N. Y.*

WORKMEN'S COMPENSATION LAW

(a) The Workmen's Compensation Law Does Not Apply to Blind Persons in Industries Under the New York State Commission, Since Their Work Is Not Carried on for Pecuniary Gain (§ 3, subd. 5)*

January 5, 1915.

HON. CLARENCE M. ABBOTT, *Secretary, New York State Commission for the Blind, 105 W. 40th St., New York City.*

DEAR SIR.—Receipt is acknowledged of your letter of the 4th relative to the liability of your commission for injuries to blind persons in your employ and placed in the employment of private persons and corporations.

This department has ruled that the Workmen's Compensation Law does not comprehend the State and its municipalities except where hazardous employments are carried on for the purpose of pecuniary gain by the State or municipality.

I find, however, upon examination of chapter 415 of the Laws of 1913, the act creating your commission, that in section 10 a distinct provision is made for the accounting for all moneys received from the sale of products made in your workshops.

However, I believe it would be my duty to contend, if a claim were presented to the Workmen's Compensation Commission, that the work is not carried on for the purpose of pecuniary gain, although you might have funds coming into your hands having the appearance of profit.

I therefore advise you that your commission is not liable under the Workmen's Compensation Law.

So far as the ordinary liability is concerned, the State is not liable for the torts of its officers and agents. I presume that blind persons employed by private persons and corporations could turn to their employer the same as any other employee. When employed by your commission, it is my opinion that the individuals responsible for any wrong would be legally liable towards such blind person employed.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

* L. 1916, ch. 622, has added Workmen's Compensation Law, § 2, subd. 43, expressly exempting employments carried on by the State and its municipalities from the "pecuniary gain" limitation of § 3, subd. 5.

(b) The Workmen's Compensation Law Does Not Apply to Town Employees Constructing County Highways, Since Their Work Is Not Carried on for Pecuniary Gain (§ 3, subd. 5)*

June 28, 1915.

MR. IRVING J. MORRIS, *Secretary State Commission of Highways, Albany, N. Y.*

DEAR SIR.—I have received your letter of June 18th, stating that the town board of the Town of South Hampton which was the successful bidder for the improvement of a county highway is desirous of learning whether it is necessary for them to comply with the provisions of the Compensation Law in the same manner as ordinary contractors. You state that it is not the expectation of the town board that any profit will be made, but that they have the necessary equipment and desire to inaugurate the work of improvement in the town in this way.

The Compensation Law as amended by chapter 316 of the Laws of 1914, includes within the term "employer" the State and a municipal corporation or other political subdivision thereof. The effect of this amendment was to do away with the provision contained in the original enactment excepting the State, its municipalities and other political subdivisions from the operation of law. But the term "employment" as defined in subdivision 5 of section 3 of the Compensation Law includes employment only in a "trade, business or occupation carried on by the employer for pecuniary gain." This must be held to be applicable to the State and its political subdivisions none of which carry on many occupations for pecuniary gain but only so far as there are such occupations has the statute included them.

It is therefore necessary to determine whether this town has undertaken an occupation for pecuniary gain and it does not seem to be necessary for us to determine this question upon the basis of their expectation as to profit because section 131 of the Highway Law which deals with the award of contracts to such town boards, provides in the last paragraph thereof, that if a town shall construct a highway by contract, as therein provided, for a lesser sum than the contract price, the town shall be paid only the amount of the actual cost of such construction and the surplus shall remain in the State treasury. It therefore seems clear that by the statute itself which authorizes the board to do this work, the town is prevented from making any profit and it cannot be said to come within the provisions of the Compensation Law. I do not wish to prejudge the determination of the commission upon this question and therefore think it might be wise for the town board to obtain an opinion from the Industrial Commission which under the statute has a special counsel. My function in handling these matters seems to relate only to matters of appeal from the determinations of the commission and I therefore do not wish to have you or the town board rely upon my judgment.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

* L. 1916, ch. 622, has added Workmen's Compensation Law, § 2, subd. 43, expressly exempting employments carried on by the State and its municipalities from the "pecuniary gain" limitation of § 3, subd. 5.

(c) The Right of State Fund Insurers to Appeal May Be Tested by a Motion to Dismiss the Appeal (§ 23)*

July 3, 1915.

HON. JEREMIAH F. CONNOR, *Chief Counsel, State Industrial Commission, 1 Madison Ave., New York City.*

MY DEAR MR. CONNOR.—I have your letter of July first with reference to three claims in which the employers are insured with the State Insurance Fund, in which the employer has filed notice of appeal to the Appellate Division, and in which you state the Commission is of the opinion that an employer in the State Fund has no right of appeal, and desire to have the matter tested.

You request my opinion as to whether this question can be properly raised if you furnish the employers copies of the records in order to prepare their papers on appeal.

Section 73 of the Compensation Law seems to indicate that any party is entitled to a transcript of the records upon payment of the proper fee, which is irrespective of the question of appeal, and even if it were not for that provision of the statute, it does not seem to me that the furnishing of these records would preclude the making of a motion by the Attorney-General to dismiss the appeal upon the ground that there is no right under the statute for such an employer to appeal.

The right of appeal is a statutory right, and is a jurisdictional question which I think can not be waived.

Very respectfully yours,

E. E. WOODBURY,
Attorney-General.

(d) Securities Deposited by Self-Insurers with the Workmen's Compensation Commission Have Been Automatically Transferred to the State Industrial Commission (§ 50, subd. 3)

June 25, 1915.

HON. JOHN MITCHELL, *Chairman, State Industrial Commission, 1 Madison Ave., New York City.*

DEAR SIR.— I beg to acknowledge receipt of your letter of the 9th instant in which you request my opinion as to whether the members of the State Workmen's Compensation Commission are relieved of responsibility as custodians of the securities deposited with them under the provisions of subdivision 3 of section 50 of the Workmen's Compensation Law of 1914, and what receipt, if any, should be furnished the members of the State Workmen's Compensation Commission upon the transfer of such securities to the custody of the State Industrial Commission.

* State Fund insurers cannot appeal from the Commission to the courts, *Crockett v. International Ry. Co.*, 170 App. Div. 122, November 10, 1915; but Workmen's Compensation Law, § 23, as amended by L. 1916, ch. 622, permits the Commission, on application of either party, to certify questions of law to the Appellate Division in State Fund cases as in other cases.

I note that some employers, prior to the enactment of chapter 674 of the Laws of 1915, which established the State Industrial Commission, deposited with the State Workmen's Compensation Commission certain securities upon the condition that they were "to be held by the Commission in trust" with power to collect the interest, &c., and sell the same, if necessary, upon the default of a self-insurer in the payment of compensation. I further note that some of these securities are bonds registered in the name of the State Workmen's Compensation Commission.

Section 50, subdivision 3, refers to deposit with the "Commission." Section 3 of the old Workmen's Compensation Law (chapter 41, Laws of 1914) defines "Commission" to mean "The State Workmen's Compensation Commission."

Section 4 of the Spring bill (chapter 674, Laws of 1915) which created the Industrial Commission, abolished the State Workmen's Compensation Commission, and provided that all of the powers, duties, obligations and liabilities conferred or imposed by law upon the Workmen's Compensation Commission "are hereby conferred and imposed upon the State Industrial Commission, and such Commission may exercise and perform such powers and duties and shall be subject to such obligations and liabilities in the same manner, to the same extent and with the same force and effect as would have been the case had the Workmen's Compensation Commission been continued in office."

For such purposes the statute says that the State Industrial Commission shall be deemed a continuation of such Workmen's Compensation Commission.

Section 6 of chapter 674 of the Laws of 1915 provides that the rules, regulations and orders of the old Commission shall be continued in force and that all "matters" pending before the old Commission shall be continued.

Section 7 of the same statute provides that whenever the term "Workmen's Compensation Commission" occurs in any law or in any rule or regulation, such term shall be deemed to mean the Industrial Commission.

From all of the above it is plain that the State Workmen's Compensation Commission has been relieved of a responsibility as custodian of such securities which have automatically been transferred to the custody of the State Industrial Commission.

It would seem to me that there is no legal requirement for the passing of a receipt to the members of the Workmen's Compensation Commission upon such transfer, but there can be no objection to any such course or proceeding, and in order to save any question at a later time in the event that any of such securities should be misplaced, lost or any difficulty arise, it might be a wise precaution which the members of both Commissions would prefer to take for their individual satisfaction.

Respectfully yours,

E. E. WOODBURY,
Attorney-General.

- (e) The State Industrial Commission May Determine Whether a Policy Has Been Cancelled or Not, May Award Directly Against an Insurance Carrier and May Bring Suit to Recover (§ 54, subd. 5)

STATE INDUSTRIAL COMMISSION, NEW YORK OFFICE, 1 MADISON AVENUE

August 13, 1915.

Claim 74,190: *Emil T. Bloom, Deceased.*

HON. E. E. WOODBURY, *Attorney-General, Capitol, N. Y.*

DEAR SIR.—Your opinion is respectfully requested upon certain questions which have arisen before the State Industrial Commission, in relation to the determination of the claim for compensation made on behalf of the wife and children of the deceased employee above named. The facts, so far as material to the question at issue, are as follows:

Emil T. Bloom was employed by the firm of Tilin & Bleek, which firm, prior to the date of the accident had given security for the payment of compensation by insuring with the Aetna Life Insurance Company. He was injured on March 24, 1915, and died on March 28, 1915. In passing upon the claim for compensation notice of hearing was sent to the employer and also to the insurance carrier. Upon the hearing the insurance carrier contended that the policy in question had been cancelled for non-payment of the premium. The employer contended that the premium had been paid and that notice of cancellation had never been received.

Has the State Industrial Commission jurisdiction to determine whether the policy above mentioned has been cancelled?

Has the State Industrial Commission jurisdiction to make an award of compensation directly against the insurance carrier, as well as against the employer?

In what manner should the State Industrial Commission pursue its right of recourse against the insurance carrier under subdivision 1 of section 54 of the Workmen's Compensation Law?

The Commission is frequently confronted with questions somewhat similar to the above, where the insurance carrier contends that its policy is not operative as to the accident in question, and the Commission would be glad to have your opinion upon the question above mentioned and any other views which you may care to give, indicating in what manner the rights, as between the injured workman, his employer and the insurance carrier may be definitely determined.

If you desire, the writer will be glad to talk the matter over with you.

Very respectfully,

STATE INDUSTRIAL COMMISSION.

By JEREMIAH F. CONNOR, *Counsel.*

August 16, 1915.

Claim 74,190: Emil T. Bloom, Deceased.

HON. J. F. CONNOR, *Counsel, State Industrial Commission, 1 Madison Avenue, New York City.*

DEAR SIR.—In reply to your letter of the 13th instant and in reply to the questions therein set forth, would say that in my opinion the State Industrial Commission has jurisdiction to determine whether the policy has been cancelled inasmuch as it is provided under section 20 that "the Commission shall have full power and authority to determine all questions in relation to payment of claims for compensation under the provisions of this chapter," and also, it is provided under subdivision 5 of section 54 that "no contract of insurance shall be cancelled until at least ten days' notice of intention to cancel such contract shall be filed in the office of the Commission," and from your letter I do not glean that any such notice had been filed in your office.

As to the second question, I think the State Industrial Commission has jurisdiction to make the award directly against the insurance carrier under subdivision 1 of section 54, as I assume that the policy in question had the clause therein stated of the right of the Commission to enforce the policy.

As to the third question, I think the State Industrial Commission after making the award, if it is not paid, can bring suit to recover the same with the penalty as provided in section 26.

Very truly yours,

E. E. WOODBURY,

Attorney-General.

(f) **The Premium on a Bond Required of a Subordinate by the State Industrial Commission Is a Proper Charge Against the State (§ 67, subd. 7)**

October 7, 1915.

HON. EUGENE M. TRAVIS, *State Comptroller, Albany, N. Y.*

DEAR SIR.—I have received your letter of September 27 enclosing bill of the Globe Indemnity Company, forwarded to your department by the State Industrial Commission for payment of premiums on official undertakings of the secretary, cashier and assistant cashier of that Commission, payment of which was refused by your office on the ground that it is not a proper charge because the law did not require the above persons to furnish a bond.

I have read your letter and also the letter enclosed by you addressed to Deputy Wendell and written by Mr. Connor, counsel of the Industrial Commission.

It is quite apparent that Mr. Connor is quoting from section 11 as it read prior to its recent amendment and this is indicated not only by the amendment of 1912, to which you refer in your letter, but by the amendment of chapter 48 of the Laws of 1914, which amended that portion of section 11 which relates to the payment by the State of the expenses of procuring such surety. That sentence now reads as follows:*

* L. 1915, ch. 628, May 14, 1915.

If the surety on an official undertaking of a state or local officer, clerk or employee of the state or political subdivision thereof or of a municipal corporation be a fidelity or surety corporation, the reasonable expense of procuring such surety, not exceeding one per centum per annum *upon the sum for which such undertaking shall be required by or in pursuance of law to be given*, shall be a charge against the state or political subdivision or municipal corporation respectively in and for which he is elected or appointed.

The amendment of 1914, chapter 48, changed the words "upon the amount of such undertaking" so as to read "upon the sum for which such undertaking shall be required by or in pursuance of law to be given."

I fail to appreciate your objection to the payment of the premiums upon these bonds. I do not find any specific law which would prevent the Commission from carrying out the specific provisions of section 67 of the Compensation Law, subdivision 7, with reference to the giving of undertakings by all subordinates receiving and disbursing moneys. Neither can it be denied that this is an official undertaking given in pursuance of law. Section 11 of the Public Officers Law uses both of these expressions and some effect must be given to the words "in pursuance of law," in addition to the meaning to be given to the words, "required by."

It is therefore my opinion that an official undertaking required by the Commission by rule as authorized by section 67 of the Compensation Law, subdivision 7, is an official undertaking given in pursuance of law, and that it is a proper charge against the State within the meaning of section 11 of the Public Officers Law.

I return herewith the bill of the Globe Indemnity Company and the letter of Mr. Connor addressed to Deputy Comptroller Wendell.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

(g) State Fund Surplus or Reserve: Custody; Investment; Registration of Bonds or Securities (§§ 91-93)

October 23, 1915.

STATE INDUSTRIAL COMMISSION, 1 Madison Ave., New York City.

GENTLEMEN.—In reference to the questions which have arisen between you and the State Treasurer, would say that it is the opinion of this office that the surplus or reserve fund belonging to the State Insurance Fund, whether in cash or securities, should at all times be in the custody of the State Treasurer; that in making investments there should be no gap between the payment of money and the delivery of securities. The method of investing, of course, is a matter of administration that can undoubtedly be done in the manner talked over when you had the conference with the State Treasurer, by placing your order for the purchase of securities with the bank with which the money is deposited.

In reference to the registration of bonds or securities, however, we do not think it necessary that they should be registered in the name of the State Treasurer, providing he has the possession and custody thereof, and as it is not necessary that they should be registered in his name, it would not be

good business practice to do so, as it would make an additional detail in the handling of the securities.

Very truly yours,

E. E. WOODBURY,
Attorney-General.

(h) State Fund Insurers Are Not Subject to Assessment (§ 100)

Employers who insure in the State Insurance Fund and have paid the premiums required by the statute are not subject to further liability by assessment. Insurance in the State Fund is not regarded as insurance in a mutual association of employers.

INQUIRY

Are the employers who insure in the State Insurance Fund subject to the same possible assessment in excess of premiums paid as employers insuring in any mutual compensation company?

OPINION

Section 100 of the Workmen's Compensation Law (chapter 816, Laws of 1913, as re-enacted and amended by chapter 41, Laws of 1914) provides as follows:

Any employer may, upon complying with subdivisions 2 or 3 of section 50 of this chapter, withdraw from the fund by turning in his insurance contract for cancellation, provided he is not in arrears for premiums due the fund and has given to the commission written notice of his intention to withdraw within thirty days before the expiration of the period for which he has elected to insure in the fund; *provided that in case any employer so withdraws, his liability to assessment shall, notwithstanding such withdrawals, continue for one year after the date of such withdrawal as against all liabilities for such compensation accruing prior to such withdrawal.*

In view of this section of the law, it has been the belief of some that policyholders insuring in the State Fund are subject to assessments as provided in the above section.

On May 23, 1915, the following resolution appears to have been adopted by the Workmen's Compensation Commission:

WHEREAS, Section 100 of the Workmen's Compensation Act relating to withdrawal from the State fund provides that in case any employer withdraws, his liability to assessments shall, notwithstanding such withdrawal, continue for one year after the date of such withdrawal as against all liabilities for such compensation accruing prior to such withdrawal; and

WHEREAS, It has come to the attention of the commission that there exists an impression that there is a liability on the part of employers insured in the State fund to be assessed by the commission in addition to the amount of premium; and

WHEREAS, The act contains no other provision whatever relating to assessment and the commission believes that the law confers no power to assess any policyholder for any amount in excess of the premium paid; therefore, be it

Resolved, That the commission declares its judgment to be that it has no right or authority under the act to levy an assessment on any policyholder.

It is my judgment that the commission has properly ruled in this matter.

I fail to find any provision in the compensation law which authorizes the commission to assess any policyholder for any amount in excess of the

premium paid unless it can be inferred from the language used in section 100 in connection with the power which has been granted to the commission under section 67 of the Workmen's Compensation Law (chapter 41, Laws of 1914, as amended) which provides that the commission shall make reasonable rules not inconsistent with this chapter regulating and providing for "carrying into effect the provisions of this chapter," or regulating and providing for "the collection, maintenance and disbursement of the state insurance fund."

Section 53 in providing for the payment of premiums into the State Fund and thereby relieving the employer from all liability for injuries to his employees seems to assume that the payment of premiums is the only payment required.

Section 90 sets forth the elements which go to make up the fund and does not mention assessments.

Section 92 provides for setting aside, from the premiums, a surplus and reserve to cover catastrophies and anticipated losses and to carry all claims and policies to maturity. There is no language here to indicate any further requirement as to assessment.

Section 94 provides for charging the administrative expense later to insurance carriers including the State Fund, but no mention is made of assessing employers insuring in either.

Section 95 permits the commission to adjust premiums, but there is no indication that this does not relate entirely to future policies. It would violate the obligations of a contract, if otherwise, and would be unconstitutional. It further requires the commission to fix the rates of premium so as to keep the fund solvent and create a reasonable surplus and reserve.

Section 97 further adds requirements as to adjusting the premium rates in accordance with loss ratios in various groups but additional assessments are not mentioned.

The same section provides machinery for dividing and crediting an aggregate balance above what is necessary for adequate surplus and reserve so as to give the employer the benefit of it on his next premium. There is no mention made in this section, however, as to an assessment being levied to provide for a deficiency.

Provision is also made in this section for an adjustment of the amount of premium at the end of the six months' period when the actual amount is determined in accordance with actual wage expenditure but this is not an assessment within the meaning of section 100.

Section 99 in providing for action for the collection of payments required by the commission has no application in the absence of further express authorization, in the statute, of the commission to require payments other than the regular premiums.

I have not seen any form of contract or policy in connection with insurance in the State Fund. I presume, however, in view of the resolution of the commission of May 23d, in which the commission states it to be its belief that it has no power to assess any policyholder, that there is no contract provision in existing policies requiring the payment of such assessments.

The question remains whether liability to assessments being recognized as existing in section 100, the commission has power to make regulations to

cover the case either on the theory that it is "carrying into effect the provisions of this chapter," or on the theory that it is part of the "collection, maintenance and disbursement of the state insurance fund."

I do not believe that it can be said that the Legislature has provided for the levying of an assessment on policyholders in the State Fund when we find that the only mention of it is in a section permitting an employer at the expiration of his policy to take out one of the other recognized forms of insurance. It may be that this provision in section 100, dealing with assessments, was placed in that section with the expectation that machinery would be provided elsewhere for the levying of such an assessment or that at the time it was inserted there was actually in the bill being drafted a suitable provision for the levying of such an assessment which was subsequently removed.

If the statute had somewhere expressly granted to the commission the power to levy an assessment for the benefit of the State Fund, instead of incidentally referring to it as an existing power, then the provisions of section 67, authorizing the commission to make rules to carry into effect the provisions of this chapter could be applied. "I believe the courts would be reluctant to approve of a delegation of legislative power to the commission to determine not only the machinery for the levy of the assessment, but the limitations of the assessment itself, where no such assessment was directly authorized."

Neither do I believe that the commission has power to cover this case under subdivision 9 of section 67 permitting it to make regulations providing for "collection, maintenance and disbursement of the state insurance fund," for the same reasons.

Dated, *July 16, 1915.*

EGBERT E. WOODBURY,
Attorney-General.

To LUCAS & DAKE Co.,

*General Agents, Aetna Life Ins. Co.,
Rochester, N. Y.*

Part XI

**LAWS, RULES, AND REGULATIONS RELATING
TO LABOR IN FORCE JANUARY 1, 1916**

COMPILED BY THE BUREAU OF STATISTICS AND INFORMATION

[*1]

EXPLANATORY NOTE

In this compilation are included all the laws in force relating to labor, with amendments to July 1, 1915. The laws are arranged in two groups. The first includes those labor laws which are administered by the present Department of Labor, comprising the general Labor Law, the Industrial Code (which is made up of the rules and regulations of the former Industrial Board, now succeeded by the Industrial Commission) and the Workmen's Compensation Law, together with penal law provisions relating to the two former. In addition to those there are a number of other laws which directly or indirectly affect labor and these are given, classified by subjects, in a second group.

The text of laws is given as in the Consolidated Laws of 1909 and succeeding years, as amended. References are given to all such amendments. For references to the sources, both original acts and amendments, of the various provisions as enacted in the Consolidated Laws, see a similar compilation in the Annual Report of the Commissioner of Labor for 1909 (Appendix VI).

In notes are given cross references to laws, and references to court decisions or opinions of the Attorney-General construing the laws. The latter may be found in the reports of the Attorney-General or in the reports of the Commissioner of Labor for the years indicated.

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**I. LAWS ADMINISTERED BY DEPARTMENT
OF LABOR**

[* 7]

THE LABOR LAW

CHAPTER 36 OF THE LAWS OF 1909, CONSTITUTING CHAPTER 31 OF THE CONSOLIDATED LAWS, AS AMENDED

LABOR LAW

- Article**
1. Short title; definitions (§§ 1-2).
 2. General provisions (§§ 3-22).
 3. Department of labor (§§ 40-48).
 4. Bureau of inspection (§§ 53-61).
 5. Bureau of statistics and information (§§ 62-65).
 - 5-A. Bureau of employment (§§ 66-66-p).
 6. Factories (§§ 69-99-a).
 7. Tenement-made articles (§§ 100-106).
 8. Bakeries and confectioneries (§§ 110-117).
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 15. Employment of children in street trades (§§ 220-227).
 - 15-A. Explosives (§§ 230-239-a).
 16. Laws repealed; when to take effect (§§ 240-241).

ARTICLE 1

Short Title; Definitions

Section 1. Short title.

2. Definitions.

§ 1. Short title.— This chapter shall be known as the "Labor Law."

§ 2. Definitions.— Employee. The term "employee," when used in this chapter, means a mechanic, workingman or laborer who works for another for hire.

Employer. The term "employer," when used in this chapter, means the person employing any such mechanic, workingman or laborer, whether the owner, proprietor, agent, superintendent, foreman or other subordinate.

Factory; work for a factory. The term "factory", when used in this chapter, shall be construed to include any mill, workshop, or other manufacturing or business establishment and all buildings, sheds, structures or other places used for or in connection therewith, where one or more persons are employed at labor, except dry dock plants engaged in making repairs to ships, and except power houses, generating plants, barns, storage houses, sheds and other structures owned or operated by a public service corporation, other than construction or repair shops, subject to the jurisdiction of the public service commission under the public service commissions law. Work shall be deemed to be done for a factory within the meaning of this chapter whenever it is done at any place, upon the work of a factory or upon any of the materials entering into the product of the factory, whether

under contract or arrangement with any person in charge of or connected with such factory directly or indirectly through the instrumentality of one or more contractors or other third persons.

Factory building. The term "factory building," when used in this chapter, means any building, shed or structure which, or any part of which, is occupied by or used for a factory.

Mercantile establishment. The term "mercantile establishment," when used in this chapter, means any place where goods, wares or merchandise are offered for sale.

Tenement house. The term "tenement house," when used in this chapter, means any house or building, or portion thereof, which is either rented, leased, let or hired out, to be occupied, or is occupied in whole or in part as the home or residence of three families or more living independently of each other and doing their cooking upon the premises, and includes apartment houses, flat houses and all other houses so occupied, and for the purposes of this chapter shall be construed to include any building on the same lot with any such tenement house and which is used for any of the purposes specified in section one hundred of this chapter.

Whenever, in this chapter, authority is conferred upon the commissioner of labor, it shall also be deemed to include his deputies or a deputy acting under his direction. [*As am'd by L. 1913, ch. 529; L. 1914, ch. 512; and L. 1915, ch. 650.*]

"Tenant factory" is defined in § 94, *post*. The definition of "tenement house" here differs slightly from that in the Tenement House Law, ch. 61 of the Consolidated Laws, § 2.

The term "employer" includes the officers, agents and employees of municipalities: Opinion of Attorney-General, September 29, 1913.

Departments, maintained in department stores, clothing stores and millinery shops in which articles are made, are factories: Opinion of Attorney-General, May 28, 1918.

A commercial ice house using machinery, etc., is a "factory": *Rabe v. Consol. Ice Co.*, 151 U. S. C. C. A. 535 (1902). Bakeries and confectioneries are "factories": see § 111, *post*; also laundries, § 92, *post*.

A tugboat is not a "business establishment" within the meaning of the definition of a factory: *Shannahan v. Empire Engineering Corporation*, 204 N. Y. 548.

A retail butcher shop using an electric meat chopping machine is not a "factory": *O'Connor v. Webber*, 163 App. Div. 175.

**ARTICLE 2
General Provisions**

- Section 3. Hours to constitute a day's work.**
 4. Violations of the labor law.
 5. Hours of labor in brickyards.
 6. Hours of labor on street surface and elevated railroads.
 7. Regulation of hours of labor on steam surface and other railroads.
 8. Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.
 8-a. One day of rest in seven.
 9. Payment of wages by receivers.
 10. Cash payment of wages.
 11. When wages are to be paid.
 12. Penalty for violation of preceding section.
 13. Assignment of future wages.
 14. Preference in employment of persons upon public works.
 15. Labels, brands and marks used by labor organizations.
 16. Illegal use of labels, brands and marks, a misdemeanor; injunction proceedings.
 17. Seats for female employees.
 18. Scaffolding for use of employees.
 19. Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.
 20. Protection of persons employed on buildings in cities.
 20-a. Accidents to be reported.
 20-b. Protection of employees.
 20-b. Switchboards to be protected.
 21. Commissioner of labor to enforce provisions of article.
 22. Duties relative to apprentices.
 22. Physical examination of employees.
 24. Contributions to benefit or insurance fund.

§ 3. Hours to constitute a day's work.—Eight hours shall constitute a legal day's work for all classes of employees in this state except those engaged in farm and domestic service unless otherwise provided by law. This section does not prevent an agreement for over work at an increased compensation except upon work by or for the state or a municipal corporation, or by contractors or subcontractors therewith. Each contract to which the state or a municipal corporation or a commission appointed pursuant to law is a party which may involve the employment of laborers, workmen or mechanics shall contain a stipulation that no laborer, workman or mechanic in the employ of the contractor, subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract shall be permitted or required to work more than eight hours in any one calendar day except in cases of extraordinary emergency caused by fire, flood or danger to life or property. The wages to be paid for a legal day's work as hereinbefore defined to all classes of such laborers, workmen or mechanics upon all such public works, or upon any material to be used upon or in connection therewith, shall not be less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where such public work on, about or in connection with which such labor is performed in its final or completed form is to be situated, erected or used * [; nor in any case, less than two dollars per day if such laborers,

* The clause in brackets was inserted by L. 1913, ch. 467, approved May 9, but was not included in the amendment made by L. 1913, ch. 494, approved May 14. An opinion of the Attorney-General rendered to the State Engineer, dated June 3, holds that chapter 494 being enacted later, and not containing the change made by chapter 467, virtually repeals the latter.

workmen or mechanics are employed upon, about or in connection with the canals of the state, or in the construction, enlargement or improvement of canals]. Each such contract hereafter made shall contain a stipulation that each such laborer, workman or mechanic, employed by such contractor, subcontractor or other person on, about or upon such public work, shall receive such wages herein provided for. Each contract for such public work hereafter made shall contain a provision that the same shall be void and of no effect unless the person or corporation making or performing the same shall comply with the provisions of this section; and no such person or corporation shall be entitled to receive any sum nor shall any officer, agent or employee of the state or of a municipal corporation pay the same or authorize its payment from the funds under his charge or control to any such person or corporation for work done upon any contract, which in its form or manner of performance violates the provisions of this section, but nothing in this section shall be construed to apply to stationary firemen in state hospitals nor to other persons regularly employed in state institutions, except mechanics, nor shall it apply to engineers, electricians and elevator men in the department of public buildings during the annual session of the legislature, nor to the construction, maintenance and repair of highways outside the limits of cities and villages. [As am'd by L. 1909, ch. 292; L. 1913, ch. 467, and L. 1913, ch. 494.]

The Legislature is expressly empowered to regulate conditions of employment on public work by the State Constitution, Article XII, § 1, p. 281, *post*.

The constitutionality of the section was sustained in 1904, so far as it relates to the direct employees of the state or of a municipality: *Ryan v. City of New York*, 177 N. Y. 271. The section is constitutional under both State and Federal constitutions: *People ex rel. Williams Engineering and Contracting Co. v. Metz*, 193 N. Y. 148 (1908). The United States Supreme Court has affirmed the constitutionality of a similar statute of Kansas: *Atkins v. Kansas*, 191 U. S. 207, and the eight-hour law of the United States: *Ellis v. U. S.*, 27 Sup. Ct. Rep. p. 600, 1907.

The section applies only to *public work* and not to "articles of common merchandise," or to "marketable commodities," like gas and electricity: *Downey v. Bender*, 57 App. Div. 310 (1901); see also the Attorney-General's opinion of June 26, 1906. The section does not apply to the manufacture of materials purchased by a contractor for public work: *Bohnen v. Metz*, 126 App. Div. 807, affirmed, 193 N. Y. 676; nor to work done under supervision of a municipal commission: *People ex rel. N. Y., B. & M. R. R. Co. & L. I. R. R. Co. v. Prendergast*, 209 N. Y. 92. But the section does apply to the manufacture of articles to be used on public work when such articles are manufactured in the contractor's own factory: Opinion of Attorney-General as to manufacture of fire escapes, April 23, 1909; as to manufacture of wood work, February 14, 1913.

An armory is a state "institution" and therefore exempt from the provisions of the section: *Matter of Burns v. Fox*, 98 App. Div. 507 (Nov. 1904). Firemen are not "employees" within the meaning of the statute, which relates only to *mechanics* or *laborers* working for hire: *Sweeney v. Sturgis*, 78 App. Div. 460, affirmed (May, 1903) 175 N. Y. 8. The wages clause does not apply to school janitors: *Farrell v. Board of Education*, 113 App. Div. 405. The clause may apply to them, however, where special laws, instead of the general education law, govern the educational system: Opinion of Attorney-General, February 7, 1913.

The section does not apply to printers regularly employed in a state hospital: Opinion of Attorney-General, March 8, 1912; nor to employees in nurseries maintained by the State Conservation Commission: Opinion of Attorney-General, April 18, 1912; nor to work done in connection with the construction and maintenance of bridges upon highways outside the limits of cities and villages: Opinion of Attorney-General, May 6, 1912. The section applies, however, to the work of repair and preparation in winter by contractors engaged on barge canal work: Opinion of Attorney-General, February 1, 1911.

A municipality making payment to a contractor knowingly in disobedience of the eight-hour requirement is not entitled to be credited with such payment: *Village of Medina v. Dingledine*, 211 N. Y. 24. A contractor bidding for work on a ten-hour basis is not entitled to compensation for increased expense due to enforced compliance with the eight-hour provision: *Sundstrom v. State of New York*, 159 App. Div. 241.

Relative to the terms "locality" and "prevailing rate of wages" in particular cases, see Opinions of Attorney-General, February 27, 1912, and November 20, 1914.

Since the section permits work in excess of eight hours "in cases of extraordinary emergency," violation must be affirmatively alleged: *Molloy v. Village of Briarcliff Manor*, 158 App. Div. 456. "Extraordinary emergency" is defined in *United States v. Sheridan Kirk Contract Co.*, U. S. Dist. Court, 149 Fed. Rep. 813; *Penn Bridge Co. v. United States*, Court of Appeals of D. C., 35 Wash. Law Reporter, 287. As to what constitutes overtime in case of emergency work, see, on part of employees of municipal department of water supply, *Grady v. City of New York*, 182 N. Y. 18 (May 30, 1905) and, on part of employees of state hospital, Opinion of Attorney-General, November 20, 1914. The commissioner of labor is not empowered to issue permits for emergency work: Opinion of Attorney-General, June 8, 1911.

The section does not apply to work done out of the state for a New York contractor: *Ewen v. Thompson-Starrett Co.*, 208 N. Y. 245 (1913).

A city employee may waive his right to the prevailing rate of wages: *Ryan v. City of New York*, 177 N. Y. 271; *Byrnes v. City of New York*, 150 App. Div. 338.

A general contractor is not liable for violation of the section by a subcontractor when evidence does not show that violation was required or permitted by the general contractor or even occurred with his knowledge or consent: *McFarlane v. Mosler & Summers*, 157 App. Div. 844.

§ 4. Violations of the labor law.—Any officer, agent or employee of this state or of a municipal corporation therein having a duty to act in the premises who violates, evades or knowingly permits the violation or evasion of any of the provisions of this chapter shall be guilty of malfeasance in office and shall be suspended or removed by the authority having power to appoint or remove such officer, agent or employee; otherwise by the governor. Any citizen of this state may maintain proceedings for the suspension or removal of such officer, agent or employee or may maintain an action for the purpose of securing the cancellation or avoidance of any contract which by its terms or manner of performance violates this chapter or for the purpose of preventing any officer, agent or employee of such municipal corporation from paying or authorizing the payment of any public money for work done thereupon.

See notes to § 3, *ante*; § 21, *post*; Penal Law, § 1271, subd. 1, p. 221, *post*.

§ 5. Hours of labor in brickyards.—Ten hours, exclusive of the necessary time for meals, shall constitute a legal day's work in the making of brick in brickyards owned or operated by corporations. No corporation owning or operating such brickyard shall require employees to work more than ten hours in any one day, or to commence work before seven o'clock in the morning. But overwork and work prior to seven o'clock in the morning for extra compensation may be performed by agreement between employer and employee.

Violation a misdemeanor: Penal Law, § 1271, subd. 3, p. 221, *post*.

§ 6. Hours of labor on street surface and elevated railroads.—Ten consecutive hours' labor, including one-half hour for dinner, shall constitute a day's labor in the operation of all street surface and elevated railroads, of what-

ever motive power, owned or operated by corporations in this state, whose main line of travel or whose routes lie principally within the corporate limits of cities of the first and second class. No employee of any such corporation shall be permitted or allowed to work more than ten consecutive hours, including one-half hour for dinner, in any one day of twenty-four hours.

In cases of accident or unavoidable delay, extra labor may be performed for extra compensation.

Violation a misdemeanor: Penal Law, § 1271, subd. 2; § 1275, pp. 221, 222, *post*. Under former law, violation was not a crime: *People v. Phyfe*, 10 Crim. 246.

§ 7. Regulation of hours of labor on steam surface and other railroads.—Ten hours' labor, performed within twelve consecutive hours, shall constitute a legal day's labor in the operation of steam surface, electric, subway and elevated railroads operated within this state, except where the mileage system of running trains is in operation. No person or corporation operating any such railroad of thirty miles in length, or over, in whole or in part within this state, shall permit or require any conductor, engineer, fireman, trainman, motorman or assistant motorman, engaged in or connected with the movement of any train on any such railroad, to be or remain on duty for a longer period than sixteen consecutive hours, and whenever any such conductor, engineer, fireman, trainman, motorman or assistant motorman shall have been continuously on duty for sixteen hours he shall be relieved and not required or permitted again to go on duty until he has had at least ten consecutive hours off duty, and no such conductor, engineer, fireman, trainman, motorman or assistant motorman who has been on duty sixteen hours in the aggregate in any twenty-four hour period shall be required or permitted to continue or again go on duty without having had at least eight consecutive hours off duty, except when by casualty occurring after he has started on his trip, and except when by accident or unexpected delay of trains scheduled to make connection with the train on which he is serving, he is prevented from reaching his terminal. The commissioner of labor shall appoint a sufficient number of inspectors to enforce the provisions of this section. [*As am'd by L. 1913, ch. 462.*]

Violation a misdemeanor: Penal Law, § 1271, subd. 4, p. 221, *post*; also evidence of negligence in action for personal injuries sustained by employee, *Pellin v. N. Y. C. & H. R. R. Co.*, 102 App. Div. 71 (1905).

§ 8. Regulation of hours of labor of block system telegraph and telephone operators and signalmen on surface, subway and elevated railroads.—The provisions of section seven of this chapter shall not be applicable to employees mentioned herein. It shall be unlawful for any corporation or receiver, operating a line of railroad, either surface, subway or elevated, in whole or in part in the state of New York, or any officer, agent or representative of such corporation or receiver to require or permit any telegraph or telephone operator who spaces trains by the use of the telegraph or telephone under what is known and termed the "block system" (defined as follows): Reporting trains to another office or offices or to a train dispatcher operating one or more trains under signals, and telegraph or telephone levermen who manipulate interlocking machines in railroad yards or on main tracks out on the lines or train dispatchers in its service whose duties substantially, as hereinbefore set forth, pertain to the movement of cars, engines or trains on its railroad by the use of the telegraph or tele-

phone in dispatching or reporting trains or receiving or transmitting train orders as interpreted in this section, to be on duty for more than eight hours in a day of twenty-four hours, and it is hereby declared that eight hours shall constitute a day of employment for all laborers or employees engaged in the kind of labor aforesaid; except in cases of extraordinary emergency caused by accident, fire, flood or danger to life or property, and for each hour of labor so performed in any one day in excess of such eight hours, by any such employee, he shall be paid in addition at least one-eighth of his daily compensation. Any person who is employed as signalman, towerman, gateman, telegraph or telephone operator in a railroad signal tower or public railroad station to receive or transmit a telegraphic or telephonic message or train order for the movement of trains and who works eight hours or more in any twenty-four each and every day continuously, and all gatemen so employed must have at least two days of twenty-four hours each in every calendar month for rest with the regular compensation; subject to the foregoing provisions relating to extra service in cases of emergency. Any person or persons, company or corporation, who shall violate any of the provisions of this section, shall, on conviction, be fined in the sum of not less than one hundred dollars, and such fine shall be recovered by an action in the name of the state of New York, for the use of the state, which shall sue for it against such person, corporation or association violating this section, said suit to be instituted in any court in this state having appropriate jurisdiction. Such fine, when recovered as aforesaid, shall be paid without any deduction whatever, one-half thereof to the informer, and the balance thereof to be paid into the free school fund of the state of New York. The provisions of this section shall not apply to any part of a railroad where not more than eight regular passenger trains in twenty-four hours pass each way; provided, moreover, that where twenty freight trains pass each way generally in each twenty-four hours then the provisions of this section shall apply, notwithstanding that there may pass a less number of passenger trains than hereinbefore set forth, namely eight. [As am'd by L. 1913, ch. 466.]

The section is unconstitutional as concerns interstate commerce because it conflicts with the U. S. law on the same subject. The U. S. Supreme Court has so decided relative to the eight-hour provision: *Erie R. R. Co., v. New York*, 233 U. S. 671. The Appellate Division, citing the U. S. Supreme Court case, has so decided relative to the days of rest provision: *People v. N. Y. C. & H. R. R. Co.*, 163 App. Div. 79.

Violation of the section subjects the offender to a civil action for recovery of the penalty and also to criminal prosecution under Penal Law, § 1275, p. 222, *post*.

The eight-hour clause does not apply to conductors and engineers temporarily acting as telephone operators in the movement of trains: Opinion of Attorney-General, March 26, 1912; nor does it apply to towermen who control the movement of trains by means of levers: Opinion of Attorney-General, August 14, 1913.

§ 8-a. One day of rest in seven.—1. Every employer of labor engaged in carrying on any factory or mercantile establishment in this state shall allow every person, except those specified in subdivision two, and as otherwise herein provided, employed in such factory or mercantile establishment at least twenty-four consecutive hours of rest in every calendar week. No employer shall operate any factory or mercantile establishment on Sunday unless he shall have

complied with subdivision three. Provided, however, that this section shall not authorize any work on Sunday not now or hereafter authorized by law. [*Subd. 1 am'd by L. 1915, ch. 648.*]

2. This section shall not apply to

(a) Janitors;

(b) Watchmen;

(c) Employees whose duties include not more than three hours work on Sunday in (1) setting sponges in bakeries; (2) caring for live animals; (3) maintaining fires; (4) necessary repairs to boilers or machinery;

(d) Superintendents or foremen in charge.

(e) Employees, if the commissioner of labor in his discretion approves, engaged in the work of any industrial or manufacturing process necessarily continuous, in which no employee is permitted to work more than eight hours in any calendar day. [*Par. (e) added by L. 1914, ch. 396, am'd by L. 1915, chs. 321, 648.*]

(f) Employees in dairies, creameries, milk condensaries, milk powder factories, milk sugar factories, milk shipping stations, butter and cheese factories, ice cream manufacturing plants and milk bottling plants, where not more than seven persons are employed. [*Par. (f) added by L. 1914, ch. 388; am'd by L. 1915, chs. 357, 648.*]

The amendments to paragraphs (e) and (f), effected by L. 1915, chs. 321 and 357, being of earlier enactment, are superseded by the complete later statement of the subdivision in L. 1915, ch. 648: Opinion of Attorney-General, June 1, 1915.

3. Before operating on Sunday, every employer shall post in a conspicuous place on the premises a schedule containing a list of his employees who are required or allowed to work on Sunday and designating the day of rest for each, and shall file a copy of such schedule with the commissioner of labor. The employer shall promptly file with the said commissioner a copy of every change in such schedule. No employee shall be required or allowed to work on the day of rest so designated for him.

4. Every employer shall keep a time book showing the names and addresses of all employees and the hours worked by each of them in each day, and such time book shall be open to inspection by the commissioner of labor.

5. If there shall be practical difficulties or unnecessary hardship in carrying out the provisions of this act, or rules or regulations adopted by the industrial board thereunder, the industrial board shall have power to make a variation from the requirements of this act, or any rule or regulation adopted by the board thereunder, if the spirit of the act shall be observed and substantial justice done. If the board shall permit such variation it shall be in the form of a resolution and such variation shall apply to all similar conditions where the facts are substantially the same as those under which such variation was granted. A majority vote shall be necessary for the adoption of any such resolution. Such resolution shall contain a description of the conditions under which such variation shall be permitted and shall be published in the manner provided for rules and regulations of the board. A record of all such variations shall be kept in the office of the industrial board and shall be properly indexed and shall be open to public inspection during business hours. [*Subd. 5 am'd by L. 1915, ch. 648; § 8-a added by L. 1913, ch. 740.*]

The amendment to this subdivision, being of earlier enactment, is doubtless superseded by new § 52-a, *post*, relative to variations; see note to said § 52-a.

See section 2 and notes thereon as to the meaning of the terms "employee," "employer," "factory" and "mercantile establishment."

Compare definition of a factory under § 2 of the Labor Law, especially as modified by L. 1914, ch. 512, and L. 1915, ch. 650. Compare also opinions of Attorney-General in the Reports of the Commissioner of Labor, 1913, pp. *273-282, and 1914, pp. *309-310, and opinions of April 15 and June 1, 1915. The section does not apply to pharmacies or drug stores, to telegraph and telephone companies (except employees working in shops), to railroads or street railways (except employees working in shops or on factory yard engines), to restaurants, lunch rooms or hotel dining-rooms, to cold storage plants (except ice-plant boiler and engine room employees), to farm work, or to chauffeurs.

The constitutionality of the section has been sustained, except as to paragraph e, by the Court of Appeals in *People v. Klinck Packing Co.*, 214 N. Y. 121.

§ 9. **Payment of wages by receivers.**—Upon the appointment of a receiver of a partnership or of a corporation organized under the laws of this state and doing business therein, other than a moneyed corporation, the wages of the employees of such partnership or corporation shall be preferred to every other debt or claim.

See also Debtor and Creditor Law, ch. 12 of the Consolidated Laws, §§ 22, 23, as amended and renumbered by L. 1914, ch. 360, and Lien Law, § 13.

Term "employees" includes operatives and laborers: *Palmer v. Van Santvoord*, 153 N. Y. 612; traveling salesmen: *Matter of Fitzgerald*, 21 Misc. 226; book-keepers employed at salary of \$100 a month: *People v. Beveridge Brewing Co.*, 91 Hun 313, and *Matter of Luxton & Black Co.*, 35 App. Div. 243, etc.

Term "wages" does not cover amounts credited to employees under a system of profit sharing: *Dolge v. Dolge*, 70 App. Div. 517.

§ 10. **Cash payment of wages.**—Every manufacturing, mining, quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph and telephone company, every express company, every corporation engaged in harvesting and storing ice, and every water company, not municipal, and every person, firm or corporation, engaged in or upon any public work for the state or municipal corporation thereof, either as a contractor or a subcontractor therewith, shall pay to each employee engaged in his, their or its business the wages earned by such employee in cash. No such company, person, firm or corporation shall hereafter pay such employees in scrip, commonly known as store money-orders. No person, firm or corporation engaged in carrying on public work under contract with the state or with any municipal corporation of the state, either as a contractor or subcontractor therewith, shall, directly or indirectly, conduct or carry on what is commonly known as a company store, if there shall, at the time, be any store selling supplies within two miles of the place where such contract is being executed. Any person, firm or corporation violating the provisions of this section shall be guilty of a misdemeanor.

Penalty: See § 12, *post*, and Penal Law, § 1272, p. 221, *post*.

On subject of constitutionality, see *Knoxville Iron Co. v. Harblson*, 183 U. S. 13, in which the United States Supreme Court sustained the Tennessee anti-truck law.

Payment by check is not a compliance with the section: Opinion of Attorney-General in his report for 1899, p. 335.

The section prohibits deductions for rent or other charges (Letter of Attorney-General, December 31, 1914).

§ 11. **When wages are to be paid.**—Every corporation or joint-stock association, or person carrying on the business thereof by lease or otherwise, shall pay weekly to each employee the wages earned by him to a day not more than six days prior to the date of such payment.

But every person or corporation operating a steam surface railroad shall, on or before the first day of each month, pay the employees thereof the wages

earned by them during the first half of the preceding month ending with the fifteenth day thereof, and on or before the fifteenth day of each month pay the employees thereof the wages earned by them during the last half of the preceding calendar month.

Penalty: See § 12, *post*, and Penal Law, § 1272, p. 221, *post*.

The semi-monthly pay law in the second paragraph of this section is constitutional as a valid exercise of the police power and of the reserved control of the state over corporate charters and as not directly burdensome on interstate commerce: *Erie R. R. Co. v. Williams*, 233 U. S. 685; *N. Y. C. R. R. Co. v. Williams*, 199 N. Y. 108.

Any corporation operating a steam surface railroad and also engaged in mining or any other business than the operation of such surface railroad must pay its employees not engaged in operating such road in accordance with the general provisions of this section: Opinion of Attorney-General, June 4, 1906. Does not apply to a municipal corporation: *People ex rel. Van Valkenburg v. Myers*, 33 N. Y. St. Rep. 18; *People v. City of Buffalo*, 57 Hun 577.

The section applies to foreign corporations doing business in this state. Clerks, stenographers, salesmen and draftsmen are "employees" receiving "wages": Opinion of Attorney-General, December 12, 1912; applies to a corporation which has entered into a partnership with individuals: Opinion of Attorney-General, April 16, 1913.

A contract that employees shall forfeit one week's wages in case they leave employer without stipulated notice is illegal: Opinion of Attorney-General, March 8, 1913.

§ 12. Penalty for violation of preceding section.—If a corporation or joint-stock association, its lessee or other person carrying on the business thereof, shall fail to pay the wages of all its employees as provided in this article, it shall forfeit to the people of the state the sum of fifty dollars for each such failure, to be recovered by the commissioner of labor in his name of office in a civil action. [*As am'd by L. 1909, ch. 206.*]

Violation also a misdemeanor: Penal Law, § 1272, p. 221, *post*.

§ 13. Assignment of future wages.—No assignment of future wages, payable weekly, or monthly in case of a steam surface railroad corporation, shall be valid if made to the corporation or association from which such wages are to become due, or to any person on its behalf, or if made or procured to be made to any person for the purpose of relieving such corporation or association from the obligation to pay weekly, or monthly in case of a steam surface railroad corporation. Charges for groceries, provisions or clothing shall not be a valid off-set for wages in behalf of any such corporation or association. No such corporation or association shall require any agreement from any employee to accept wages at other periods than as provided in this article as a condition of employment.

See Personal Property Law, § 42, and law relative to small loans, pp. 273-277, *post*.

A contract that part of the wages shall be withheld weekly until the end of the month is illegal: Opinion of Attorney-General, September 18, 1913.

§ 14. Preference in employment of persons upon public works.—In the construction of public works by the state or a municipality, or by persons contracting with the state or such municipality, preference shall be given to citizens over aliens. Aliens may be employed when citizens are not available.

In each contract for the construction of public works a provision shall be inserted, to the effect that, if the provisions of this section are not complied with, the contract shall be void. All boards, officers, agents or employees of

cities of the first class of the state, having the power to enter into contracts which provide for the expenditure of public money on public works, shall file in the office of the commissioner of labor the names and addresses of all contractors holding contracts with said cities of the state. Upon the letting of new contracts the names and addresses of such new contractors shall likewise be filed. Upon the demand of the commissioner of labor a contractor shall furnish a list of the names and addresses of all subcontractors in his employ. Each contractor performing work for any city of the first class shall keep a list of his employees, in which it shall be set forth whether they are naturalized or native born citizens of the United States, together with, in case of naturalization, the date of naturalization and the name of the court where such naturalization was granted. Such lists and records shall be open to the inspection of the commissioner of labor. A violation of this section shall constitute a misdemeanor and shall be punishable by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than thirty nor more than ninety days, or by both such fine and imprisonment. [As am'd by L. 1915, ch. 51.]

The section does not require that aliens, who have been hired at a time when citizens were not available, be discharged in favor of citizens who later become available: Opinion of Attorney-General, March 31, 1915.

The statute of 1894 making it a crime for a contractor with a municipal corporation for the construction of public works, to employ alien laborers thereon, was held in 1895 to be an unconstitutional invasion of personal rights and also a violation of a treaty of the United States with Italy: *People v. Warren*, 13 Misc. 615. Prior to amendment by L. 1915, ch. 51, the prohibition of alien labor by this section was held to be constitutional: *People v. Crane*, 214 N. Y. 154.

As to the preference clause, see *City of Chicago v. Hurlbut*, 68 N. E. 786 (1903); but Massachusetts enacted a law giving preference to resident labor in 1904 (ch. 311), which was re-enacted in 1909 (ch. 514, §§ 21, 145).

§ 15. Labels, brands and marks used by labor organizations.—A union or association of employees may adopt a device in the form of a label, brand, mark, name or other character for the purpose of designating the products of the labor of the members thereof. Duplicate copies of such device shall be filed in the office of the secretary of state, who shall, under his hand and seal, deliver to the union or association filing or registering the same a certified copy and a certificate of the filing thereof, for which he shall be entitled to a fee of one dollar. Such certificate shall not be assignable by the union or association to whom it is issued.

This act is constitutional and the infringement of a registered label will be restrained by injunction: *Perkins v. Heert*, 158 N. Y. 306.

§ 16. Illegal use of labels, brands and marks a misdemeanor; injunction proceedings.—A person who (1) shall in any way use or display the label, brand, mark, name or other character, adopted by any such union or association as provided in the preceding section, without the consent or authority of such union or association; or (2) shall counterfeit or imitate any such label, brand, mark, name or other character, or knowingly sells or disposes of, or keeps or has in his possession with intent to sell or dispose of, any goods, wares, merchandise or other products of labor, upon which any such counterfeit or imitation is attached, affixed, printed, stamped or impressed, or knowingly sells or disposes of, or keeps or has in his possession with intent to sell or dispose of any goods, wares, merchandise or other products of labor con-

tained in any box, case, can or package, to which or on which any such counterfeit or imitation is attached, affixed, printed, painted, stamped or impressed, is guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment for not less than three months nor more than one year, or by both such fine and imprisonment. After filing copies of such device, such union or association may also maintain an action to enjoin the manufacture, use, display or sale of counterfeit or colorable imitations of such device, or of goods bearing the same, or the unauthorized use or display of such device, or of goods bearing the same, and the court may restrain such wrongful manufacture, use, display or sale, and every unauthorized use or display by others of the genuine devices so registered and filed, if such use or display is not authorized by the owner thereof, and may award to the plaintiff such damages resulting from such wrongful manufacture, use, display or sale as may be proved, together with the profits derived therefrom.

Knowledge or intent is not an ingredient of an offense of counterfeiting a registered label: *Bulena v. Newman*, 10 Misc. 460. A colorable imitation of a union label, even though it have distinguishing words or names, contravenes this section: *Myrup v. Friedman*, 58 Misc. 323.

§ 17. Seats for female employees.— Every person employing females in a factory or as waitresses in a hotel or restaurant shall provide and maintain suitable seats, with proper backs where practicable, for the use of such female employees, and permit the use thereof by such employees to such an extent as may be reasonable for the preservation of their health. Where females are engaged in work which can be properly performed in a sitting posture, suitable seats, with backs where practicable, shall be supplied in every factory for the use of all such female employees and permitted to be used at such work. The industrial board may determine when seats, with or without backs, are necessary and the number thereof. [*As am'd by L. 1913, ch. 197.*]

Cf. §§ 88, 170, *post*.

§ 18. Scaffolding for use of employees.— A person employing or directing another to perform labor of any kind in the erection, repairing, altering or painting of a house, building or structure shall not furnish or erect, or cause to be furnished or erected for the performance of such labor, scaffolding, hoists, stays, ladders or other mechanical contrivances which are unsafe, unsuitable or improper, and which are not so constructed, placed and operated as to give proper protection to the life and limb of a person so employed or engaged.

Scaffolding or staging swung or suspended from an overhead support, or erected with stationary supports, more than twenty feet from the ground or floor, except scaffolding wholly within the interior of a building and which covers the entire floor space of any room therein, shall have a safety rail of suitable material, properly bolted, secured and braced, rising at least thirty-four inches above the floor or main portions of such scaffolding or staging and extending along the entire length of the outside and the ends thereof, with such openings as may be necessary for the delivery of ma-

terials, and properly attached thereto, and such scaffolding or staging shall be so fastened as to prevent the same from swaying from the building or structure. [As am'd by L. 1911, ch. 693.]

Violation is a misdemeanor: Penal Law, § 1276, p. 222, *post*; and renders master liable in case of injury to employees: § 202, *post*.

The question of what constitutes a structure or a scaffold under this section is one to be decided according to the circumstances of each case and has led to numerous decisions. As to the general principles upon which these questions must be determined see *Caddy v. Interborough Rapid Transit Co.*, 195 N. Y. 415 (1909).

As to relative liability of contractor and sub-contractor see *Quigley v. Thatcher*, 207 N. Y. 66; *Bohnhoff v. Fischer*, 210 N. Y. 172; *Campbell v. McNulty Bros.*, 162 App. Div. 685.

An employer is liable for failure to equip the foot of a ladder with sharp spurs: *Shovan v. Lozier Motor Co.*, 158 App. Div. 487; and for failure to so place and operate a hoist as to protect employees from falling bricks or other falling material: *Coleman v. Ruggles-Robinson Co.*, 159 App. Div. 268.

§ 19. Inspection of scaffolding, ropes, blocks, pulleys and tackles in cities.—Whenever complaint is made to the commissioner of labor that the scaffolding or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons, or ropes of any swinging or stationary scaffolding used in the construction, alteration, repairing, painting, cleaning or pointing of buildings within the limits of a city are unsafe or liable to prove dangerous to the life or limb of any person, such commissioner of labor shall immediately cause an inspection to be made of such scaffolding, or the slings, hangers, blocks, pulleys, stays, braces, ladders, irons or other parts connected therewith. If, after examination, such scaffolding or any of such parts is found to be dangerous to life or limb, the commissioner of labor shall prohibit the use thereof, and require the same to be altered and reconstructed so as to avoid such danger. The commissioner of labor or deputy factory inspector making the examination shall attach a certificate to the scaffolding, or the slings, hangers, irons, ropes, or other parts thereof, examined by him, stating that he has made such examination, and that he has found it safe or unsafe, as the case may be. If he declares it unsafe, he shall at once, in writing, notify the person responsible for its erection of the fact, and warn him against the use thereof. Such notice may be served personally upon the person responsible for its erection, or by conspicuously affixing it to the scaffolding, or the part thereof declared to be unsafe. After such notice has been so served or affixed, the person responsible therefor shall immediately remove such scaffolding or part thereof and alter or strengthen it in such manner as to render it safe, in the discretion of the officer who has examined it, or his superiors. The commissioner of labor and any of his deputies whose duty it is to examine or test any scaffolding or part thereof, as required by this section, shall have free access, at all reasonable hours, to any building or premises containing them or where they may be in use. All swinging and stationary scaffolding shall be so constructed as to bear four times the maximum weight required to be dependent therefrom or placed thereon, when in use, and not more than four men shall be allowed on any swinging scaffolding at one time.

Violation is a misdemeanor: Penal Law, § 1276, p. 222, *post*; and renders master liable in case of injury to employees: § 202, *post*.

§ 20. Protection of persons employed on buildings in cities.—All contractors and owners, when constructing buildings in cities, where the plans and specifications require the floors to be arched between the beams thereof, or where the floors or filling in between the floors are of fire-proof material or brickwork, shall complete the flooring or filling in as the building progresses. If the plans and specifications of such buildings do not require filling in between the beams of floors with brick or fire-proof material all contractors for work, in the course of construction, shall lay the underflooring thereof on each story as the building progresses. Where double floors are not to be used, such contractor shall keep planked over the floors two stories below the story where the work is being performed. If the floor beams are of iron or steel, the contractors for the iron or steel work of buildings in course of construction or the owners of such buildings shall thoroughly plank over the entire tier of iron or steel beams and extending not less than six feet beyond such beams on which the structural iron or steel work is being erected, except such spaces as may be reasonably required for the proper construction of such iron or steel work, and for the raising or lowering of materials to be used in the construction of such building, or such spaces as may be designated by the plans and specifications for stairways and elevator shafts. If elevators, elevating machines or hod-hoisting apparatus are used within a building in the course of construction, for the purpose of lifting materials to be used in such construction, the contractors or owners shall cause the shafts or openings in each floor to be inclosed or fenced in on all sides by a barrier at least eight feet in height, except on two sides which may be used for taking off and putting on materials, and those sides shall be guarded by an adjustable barrier not less than three nor more than four feet from the floor and not less than two feet from the edge of such shaft or opening. If a building in course of construction is five stories or more in height, no lumber or timber needed for such construction shall be hoisted or lifted on the outside of such building. The chief officer, in any city, charged with the enforcement of the building laws of such city and the commissioner of labor are hereby charged with enforcing the provisions of this section and sections eighteen and nineteen, and said chief officer in any city charged with the enforcement of the building laws of such city shall have the same powers for the enforcement of these sections as are vested in the commissioner of labor. [*As am'd by L. 1911, ch. 693 and L. 1913, ch. 492.*]

Violation is a misdemeanor: Penal Law, § 1277, p. 222, *post*; and renders master liable in case of injury to employees: § 202, *post*.

As to relative liability of owner and contractor see *e. g.* *Rooney v. Brogan Construction Co.*, 194 N. Y. 32 (1909).

As to liability of contractor hoisting material on outside of building five stories or more in height, in violation of this section, see *Bergquist v. Oregon Apartments Co. & Koch*, 161 App. Div. 210.

§ 20-a. Accidents to be reported.—The person in charge of any building, construction, excavating or engineering work of any description, including the work of repair, alteration, painting or renovating, shall keep a correct record of all deaths, accidents or injuries sustained by any person working thereon, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand.

Within forty-eight hours after the time of the accident, death or injury, a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [Added by L. 1910, ch. 155.]

Compare § 87, factory accidents, and § 126, mine and quarry accidents. Section 96 of the Workmen's Compensation Law, *post*, provides for the formation of accident prevention associations by employers and § 111 of said law requires employers to record and report details of accidents.

Section 20-a applies to house wrecking: Opinion of Attorney-General of May 17, 1911; also to maintenance of way on railroad work: Opinion of Attorney-General, January 10, 1913.

* § 20-b. Protection of employees.—All factories, factory buildings, mercantile establishments and other places to which this chapter is applicable, shall be so constructed, equipped, arranged, operated and conducted in all respects as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein. The industrial board shall, from time to time, make such rules and regulations as will carry into effect the provisions of this section. [Added by L. 1913, ch. 145.]

* § 20-b. Switchboards to be protected.—All buildings having installed therein a switchboard of two hundred and twenty volts or over shall have, on the floor or upon such platform or other standing place as the switchboard may be located or attached, a rubber mat the length of the switchboard and of sufficient width to allow a person to walk or stand thereon while working at the switchboard or making tests. [Added by L. 1913, ch. 543.]

§ 21. Commissioner of labor to enforce provisions of article.—The commissioner of labor shall enforce all the provisions of this article. He shall investigate complaints made to him of violations of such provisions and if he finds that such complaints are well founded he shall issue an order directed to the person or corporation complained of, requiring such person or corporation to comply with such provisions. If such order is disregarded the commissioner of labor shall present to the district attorney of the proper county all the facts ascertained by him in regard to the alleged violation, and all other papers, documents or evidence pertaining thereto, which he may have in his possession. The district-attorney to whom such presentation is made shall proceed at once to prosecute the person or corporation for the violations complained of, pursuant to this chapter and the provisions of the penal law. If complaint is made to the commissioner of labor that any person contracting with the state or a municipal corporation for the performance of any public work fails to comply with or evades the provisions of this article respecting the payment of the prevailing rate of wages, the requirements of hours of labor or the employment of citizens of the United States

*As in original, both sections numbered 20-b.

or of the state of New York, the commissioner of labor shall if he finds such complaints to be well founded, present evidence of such non-compliance to the officer, department or board having charge of such work. Such officer, department or board shall thereupon take the proper proceedings to revoke the contract of the person failing to comply with or evading such provisions.

See §§ 3 and 4 *ante*; and Penal Law, § 1271, subd. 1, p. 221, *post*. The procedure of §§ 3, 4 and 21 of the Labor Law is exclusive of the provisions for criminal prosecutions of § 1271 of the Penal Law: Letter of Attorney-General, July 16, 1914.

The determination of the commissioner of labor as to a violation of the section by contractor is merely advisory to and not conclusive upon the municipality in question: *In re Keystone State Construction Co. v. Williams*, 152 App. Div. 575; *aff'd*, 207 N. Y. 767.

* § 22. Duties relative to apprentices.—The commissioner of labor shall enforce the provisions of the domestic relations law, relative to indenture of apprentices, and prosecute employers for failure to comply with the provisions of such indentures and of such law in relation thereto. [*Renumbered by L. 1913, ch. 145, § 7; formerly § 67 of article 5.*]

For the law concerning apprentices, here referred to, see pp. 315–318, *post*.

* § 22. Physical examination of employees.—Whenever an employer shall require a physical examination by a physician or surgeon as a condition of employment, the party to be examined, if a female, shall be entitled to have such examination before a physician or surgeon of her own sex. If an employer shall require or attempt to require a female applicant for employment to submit to an examination in violation of the provisions of this section, he shall be guilty of a misdemeanor. [*Added by L. 1913, ch. 320.*]

† § 24. Contributions to benefit or insurance fund.—A corporation engaged in the business of operating a mercantile establishment shall not by deduction from salary, compensation or wages, by direct payment or otherwise, compel any employee in such mercantile establishment to contribute to a benefit or insurance fund maintained or managed for the employees of such establishment by such corporation, or by any other corporation or person; and every contract or agreement whereby such contribution is exacted shall be absolutely void. A corporation which will violate this section shall be liable to a penalty of one hundred dollars, recoverable by the person aggrieved in any court of competent jurisdiction. A director, officer or agent of a corporation who compels any employee to make a contribution in violation of this section, or sign any contract or agreement to make such contribution, or imposes or requires such a contribution as a condition of entering into or continuing in the employment of a mercantile establishment, shall be guilty of a misdemeanor. [*Added by L. 1914, ch. 320.*]

* As in original; both sections numbered 22.

† Section 24 was added to article 1 by chapter 320 but should evidently be inserted here.

ARTICLE 3

Department of Labor

Section 40. Industrial commission created.

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41. Deputy commissioners.

42. Bureaus.

43. Powers.

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52-c. Limited review of provisions of chapter and of rules, regulations and orders.

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§ 40. Industrial commission created.— There shall be a department of labor, the head of which shall be the industrial commission. The commission shall consist of five commissioners appointed by the governor by and with the advice and consent of the senate, one of whom shall be designated by the governor as chairman. Upon the appointment of a successor to the chairman the governor shall designate such successor or any member of the commission as chairman thereof. The term of office of each commissioner shall be six years, except that the term of the commissioners first appointed shall expire, one on January first, nineteen hundred and seventeen, one on January first, nineteen hundred and eighteen, one on January first, nineteen hundred and nineteen, one on January first, nineteen hundred and twenty and one on January first, nineteen hundred and twenty-one. Their successors shall be appointed for full terms of six years from the expiration of the terms of their predecessors in office. If a vacancy occurs otherwise than by expiration of a term, it shall be filled by appointment for the unexpired term. Each commissioner shall receive an annual salary of eight thousand dollars, and shall devote his entire time to the duties of his office. Not more than three commissioners shall be members of the same political party.

The governor may remove a commissioner for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges and an opportunity of being publicly heard in person or by counsel on not less than ten days' notice. If the commissioner be removed, the governor shall file in the office of the secretary of state a complete record of his proceedings with regard to such removal and his findings thereon.

The commission may adopt a seal and require that it be used for the authentication of the commission's orders and proceedings and for such other purposes as the commission may prescribe. The court shall take judicial

notice of such seal and of the signatures of the chairman and secretary of the commission. [*As am'd by L. 1911, ch. 729; L. 1913, ch. 145; and L. 1915, ch. 674.*]

L. 1915, ch. 674, §§ 3-7, abolishes the office of commissioner of labor and the workmen's compensation commission, makes the industrial commission successor to the powers, duties, obligations and liabilities of the workmen's compensation commission under the workmen's compensation law, pp. 228-249, *post*, or any other statute, and provides that references in any law or rule to the "department of labor," "commissioner of labor," "industrial board" or "workmen's compensation commission" shall be deemed to mean the industrial commission.

§ 40-a. Industrial council.—(1) To advise the commission there shall be an industrial council composed of ten members appointed by the governor. Five members of the council shall be persons known to represent the interests of employees and five shall be persons known to represent the interests of employers. The governor may remove any member of the council when such member ceases to represent the interests in whose behalf he was appointed.

(2) The council shall organize by electing as chairman any person not a member of the council. The chairman shall preside at meetings of the council and may take part in its deliberations, but shall have no vote. The secretary of the commission shall act as secretary to the council and the commission shall detail from time to time to the assistance of the council such employees as may be necessary.

(3) No compensation or expenses shall be paid from the treasury to the members of the council.

(4) The council shall: (a) consider all matters submitted to it by the industrial commission and advise the commission with respect thereto; (b) cooperate with the civil service commission in conducting examinations and in preparing lists of eligibles for positions, the duties of which require special knowledge or training, and advise the industrial commission in the selection and appointment of employees to such positions. The council shall adopt rules and regulations to govern its own proceedings. The secretary shall keep a complete record of all its proceedings which shall show the names of the members present at each meeting, and every matter submitted to the council by the commission and the action of the council thereon. The record shall be filed in the commission's office. All records and other documents of the commission shall be subject to inspection by the members of the council. [*Section 40-a added by L. 1915, ch. 674.*]

§ 41. Deputy commissioners.—The commission shall appoint and may remove a first deputy commissioner who shall be in charge of the bureau of inspection; a second deputy commissioner who shall be in charge of the workmen's compensation bureau; a third deputy commissioner who shall be in charge of the bureau of mediation and arbitration.

The annual salaries of the deputies shall be as follows: first deputy, six thousand dollars; second deputy, six thousand dollars; third deputy, five thousand dollars. [*As am'd by L. 1911, ch. 729; L. 1913, ch. 145; and L. 1915, ch. 674.*]

§ 42. Bureaus.—The department of labor shall have the following bureaus: inspection; statistics and information; mediation and arbitration; industries and immigration; employment; workmen's compensation; and such other bureaus as the commission may deem necessary. Each bureau and division of

the department and the persons in charge thereof shall be subject to the supervision and direction of the commission and of any commissioner duly designated to supervise the work of such bureau, and in addition to their respective duties as prescribed by this chapter shall perform such other duties as may be assigned to them by the commission. [*As am'd by L. 1910, ch. 514; L. 1913, ch. 145; L. 1914, ch. 181; and L. 1915, ch. 674.*]

§ 43. Powers.—1. The commissioners, deputy commissioners, secretary and other officers and assistants of the commission may administer oaths and take affidavits in matters relating to the powers and duties of the commission. [*Subd. 1 am'd by L. 1910, ch. 514; L. 1912, ch. 382; L. 1913, ch. 145; and L. 1915, ch. 674.*]

2. No person shall interfere with, obstruct or hinder by force or otherwise the commissioners, deputy commissioners, or any officer, agent or employee of the department of labor while in the performance of their duties, or refuse to properly answer questions asked by such officers or employees pertaining to the provisions of this chapter, or refuse them admittance to any place which is affected by the provisions of this chapter. [*Subd. 2 am'd by L. 1910, ch. 514; L. 1913, ch. 145; and L. 1915, ch. 674.*]

3. All notices, orders and directions of any officer, agent or employee of the department of labor other than the commission given in accordance with this chapter are subject to the approval of the commission and may be performed or given by and in the name of the commission and by any officer or employee of the department thereunto duly authorized by the commission in its name. [*Subd. 3 am'd by L. 1910, ch. 514; L. 1913, ch. 145; and L. 1915, ch. 674.*]

4. The commission may procure and cause to be used badges for the officers, agents and employees in the department of labor while in the performance of their duties. [*Subd. 4 am'd by L. 1915, ch. 674.*]

§ 44. Expenses.—All necessary expenses incurred by the commission in the discharge of its duties shall be paid by the state treasurer upon the warrant of the comptroller issued upon proper vouchers therefor. The reasonable and necessary traveling and other expenses of the deputy commissioners, the secretary of the commission, inspectors, investigators and other officers, assistants, agents and employees of the commission while engaged in the performance of their duties shall be paid in like manner upon vouchers approved by the commission and audited by the comptroller. [*As am'd by L. 1910, ch. 514; L. 1913, ch. 145; and L. 1915, ch. 674.*]

§ 45. Distribution of responsibility.—At the first meeting of the commission after its appointment, and at least once in each year thereafter, the commission shall by resolution duly approved, apportion the administrative work involved in the performance of its duties and the exercise of its powers under this chapter and under the workmen's compensation law, among the members of the commission and shall designate the portion of such work which each of its members, under the direction and control of the commission, shall supervise and be responsible for.

The commission shall submit all questions of general policy arising in the exercise of its powers or the performance of its duties under the provisions of this chapter or under the provisions of the workmen's compensation law to the industrial council or its members for their consideration and advice. [*As am'd by L. 1911, ch. 729; L. 1913, ch. 145; and L. 1915, ch. 674.*]

§ 46. Reports.—The commission shall report annually to the legislature and shall include in his* annual report or make separately in each year a report of the operation of each bureau in the department. [*As am'd by L. 1913, ch. 145; and L. 1915, ch. 674.*]

§ 47. Old records.—All statistics furnished to and all complaints, reports and other documentary matter received by the commission pursuant to this chapter or any act repealed or superseded thereby may be destroyed by such commission after the expiration of six years from the time of the receipt thereof. [*As am'd by L. 1915, ch. 674.*]

See Penal Law, § 2050.

§ 48. Counsel.—The commission may appoint and at pleasure remove as counsel to the commission an attorney and counsellor at law of the state of New York who shall represent the department of labor or the commission and take charge of and assist in the prosecution of actions and proceedings brought by or on behalf of the commission or the department and who shall generally act as legal advisor to the commission. Such counsel shall receive an annual salary of six thousand dollars. The commission may appoint and at pleasure remove not exceeding three attorneys and counsellors at law to assist the counsel in the performance of his duties and may fix their compensation within the limits of the annual appropriation provided therefor. [*As am'd by L. 1913, ch. 145; and L. 1915, ch. 674.*]

§ 49. Secretary.—The commission shall appoint and may remove a secretary, at an annual salary of six thousand dollars. The secretary shall perform such duties in connection with the meetings of the commission and its investigations, hearings and the preparation of rules and regulations under the provisions of this chapter as the commission may prescribe; and shall perform the duties of secretary of the workmen's compensation commission, as prescribed by the workmen's compensation law. [*Added by L. 1915, ch. 674.*]

§ 49-a. Officers and employees.—The commission may appoint such additional deputy commissioners, and such officers, statisticians, actuaries, accountants, physicians, experts and other assistants and employees as may be necessary for the exercise of its powers and the performance of its duties under the provisions of this chapter and of the workmen's compensation law, all of whom shall be in either the competitive or the non-competitive class of the classified civil service; and the commission shall prescribe their duties and fix their salaries which shall not exceed in the aggregate the amount annually appropriated by the legislature for that purpose. [*Added by L. 1915, ch. 674.*]

L. 1915, ch. 674, §§ 3-5, abolishes the offices of deputy commissioners of labor and deputy commissioners and secretary of the workmen's compensation commission, but continues in office all other subordinate officers and employees of the department of labor and the workmen's compensation commission.

§ 50. Meetings.—The commission shall hold stated meetings, at least once a month at the office of the department in Albany or in New York city, and shall hold other meetings when and where called by the chairman or two members of the commission. All meetings of the commission shall be open to the public. The commission shall keep records of its investigations and

* So in original.

other official actions, and minutes of its proceedings showing the vote of each member upon every question. [*Added by L. 1913, ch. 145; am'd by L. 1915, ch. 674.*]

§ 51. Investigations.—The commission shall have power to make investigations concerning and report upon the conditions of labor generally and upon all matters relating to the enforcement and effect of the provisions of this chapter and of the rules and regulations of the commission. Each member of the commission and the secretary shall have power to administer oaths and take affidavits and to make personal inspections of all places to which this chapter applies. The commission shall have power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigations and inquiries hereby authorized, and to examine them in relation to any matter it has power to investigate, and to issue commissions for the examination of witnesses who are out of the state or unable to attend before the commission, or excused from attendance. [*Added by L. 1913, ch. 145; am'd by L. 1915, ch. 674.*]

§ 51-a. Rules and regulations.—(1) The commission shall have power to make, amend and repeal rules and regulations for carrying into effect the provisions of this chapter, applying such provisions to specific conditions and prescribing means, methods and practices to effectuate such provisions.

The industrial board may adopt rules and regulations for the safety of factories more stringent than corresponding provisions of the Labor Law: Opinion of Attorney-General, August 26, 1913.

(2) The commission shall have power to make, amend and repeal rules and regulations for proper sanitation in all places to which this chapter applies, and for guarding against and minimizing fire hazards, personal injuries and diseases in all places to which this chapter applies, with respect to

a. The construction, alteration, equipment and maintenance of all such places, including the conversion of structures into factories, factory buildings and mercantile establishments;

b. The arrangement and guarding of machinery and the storing and keeping of property and articles;

c. The places where and the methods and operation by which trades and occupations may be conducted, and the conduct of employers, employes* and other persons;

It being the policy and intent of this chapter that all places to which it applies shall be so constructed, equipped, arranged, operated and conducted in all respects as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein, and frequenting the same, and that the commission shall from time to time make such rules and regulations as will effectuate such policy and intent.

(3) Whenever the commission finds that any industry, trade, occupation or process involves such elements of danger to the lives, health or safety of persons employed therein as to require special regulation for the protection of such persons, the commission shall have power to make special rules and regulations to guard against such elements of danger by establishing requirements as to temperature, humidity, the removal of dusts, gases or fumes and

* So in original.

requiring licenses to be applied for and issued by the commission as a condition of carrying on any such industry, trade, occupation or process and requiring medical inspection and supervision of persons employed and applying for employment, and by other appropriate means.

(4) The rules and regulations may be limited in their application to certain classes of establishments, places of employment, machines, apparatus, articles, processes, industries, trades or occupations or may apply only to those to be constructed, established, installed or provided in the future.

(5) The rules and regulations of the commission shall have the force and effect of law and shall be enforced in the same manner as the provisions of this chapter.

(6) No provision of this chapter specifically conferring power on the commission to make rules and regulations shall limit the power conferred by this section. [*Section 51-a added by L. 1915, ch. 674.*]

For other provisions of the Labor Law conferring rule-making or order-making power upon the industrial commission, see § 8-a, subd. 5; § 17; § 20-b; § 60; § 78, subd. 3; § 79, subds. 2, 5; § 79-b, subds. 1, 2; § 79-c, subd. 4; § 79-e, subds. 2, 5, 10; § 79-f, subds. 2, 6, 11; § 81, subds. 1, 2, 4; § 83-a, subd. 1; § 86, subd. 3; § 88, subds. 2, 3; § 88-a, subds. 1, 3, 5, 7; § 93, subds. 1, 3, 4; § 97, subd. 4; § 98; § 99; § 117; § 119; § 125; § 168-e, subd. 6; § 168-f. See also Workmen's Compensation Law, § 96, pp. 236, 240, 244. For rule-making power of the fire commissioner of New York city, see Labor Law, §§ 83-a-83-c.

§ 52. Industrial code; procedure.—The rules and regulations of the commission shall constitute the industrial code. At least three affirmative votes shall be necessary for the adoption, amendment or repeal of any rule or regulation. Before any rule or regulation is adopted, amended or repealed, there shall be a public hearing thereon, notice of which shall be published at least once, not less than ten days prior thereto, in such newspapers as the commission may prescribe, and in the City Record in the city of New York. The commission may appoint committees composed of employers, employees and experts to assist it in framing rules and regulations and shall submit all proposed rules and regulations to the industrial council or the members thereof for their consideration and advice. Every rule and regulation adopted, every amendment or repeal thereof and every act of the commission shall be promptly published in the bulletins of the department and in the City Record in the city of New York. The rules and regulations and all amendments and repeals thereof shall, unless otherwise prescribed by the commission, take effect twenty days after the first publication thereof, and every rule and regulation and every amendment or repeal thereof, shall be certified by the secretary of the commission and filed with the secretary of state. [*Added by L. 1913, ch. 145; am'd by L. 1915, ch. 674.*]

§ 52-a. * Variations.—If there shall be practical difficulties or unnecessary hardship in carrying out any provision of this chapter, or rule or regulation adopted by the industrial board thereunder, affecting the construction or alteration of buildings, exits therefrom, the installation of fixtures and apparatus, or the safe-guarding of machinery and prevention of accidents, the industrial board shall have power to make a variation from such requirements if the spirit of the provision or rule or regulation shall be observed and public

* As in original both sections numbered 52-a. The latter section does not supersede or amend the earlier: Opinion of Attorney-General, June 1, 1915.

safety secured. Any person affected by such provision or rule or regulation, or his agent, may petition the board for such variations stating the grounds therefor. The board shall fix a day within a reasonable time for a hearing on such petition and give notice thereof to the petitioner who may appear in person or by agent or attorney. If the board shall permit such variation it shall be in the form of a resolution and such variation shall apply to all buildings, installations or conditions where the facts are substantially the same as those stated in the petition. At least three affirmative votes shall be necessary for the adoption of any such resolution. Such resolution shall contain a description of the conditions under which such variation shall be permitted and shall be published in the manner provided for rules and regulations of the board. A record of all such variations shall be kept in the office of the industrial board and shall be properly indexed under section numbers of the law or industrial code to which each variation applies, and shall be open to public inspection during business hours. [Added by L. 1915, ch. 719.]

This section, being a later enactment, supersedes § 52-d, *post*, relative to variations: Opinion of Attorney-General, June 1, 1915. It is also a later enactment than § 8-a, subd. 5, *ante*, relative to variations.

§ 52-a. * Review by commission.—1. Any person in interest may petition the commission for a review of the validity or reasonableness of any rule, regulation or order made by the commission or otherwise under the provisions of this chapter.

2. The petition shall be verified and filed with the commission and shall state in full detail: (a) The rule, regulation or order upon which the hearing is desired; in what respects it is claimed to be invalid or unreasonable; (c) the issues to be considered by the commission on the hearing.

The commission may join in one proceeding all petitioners alleging invalidity or unreasonableness of the same or substantially similar rules, regulations or orders. The petitioner shall be deemed to have waived all objections to any irregularities or illegalities in the rule, regulation or order upon which a hearing is sought other than those set forth in the petition.

3. Upon receipt of the petition, the commission shall, if necessary to determine the issues raised, order a hearing, or if the issues have been adequately considered in a prior proceeding under this section or otherwise, the commission may, without hearing, confirm its previous determination. Notice of the time and place of hearing, which shall be open to the public, shall be given to the petitioner and to such other persons as the commission may find directly interested in the issues raised by the petitioner.

4. If, upon such hearing, the commission finds that the rule, regulation or order complained of is invalid or unreasonable it shall revoke it or substitute therefor a new or amended one. If the substituted rule, regulation or order involves a substantial amendment of the original one, the parties may, by new petition, bring before the commission all objections to its validity and reasonableness and no action under the provisions of section fifty-two-b shall meanwhile be entertained by the court.

5. The decision of the commission shall be final unless within thirty days after its issuance one of the parties to the proceeding before the commission

* As in original both sections numbered 52-a. The later section does not supersede or amend the earlier: Opinion of Attorney-General, June 1, 1915.

appeals from its decision by bringing an action as provided in section fifty-two-b. [*Added by L. 1915, ch. 674.*]

§ 52-b. Review by court.—1. Any person in interest may bring an action in the supreme court against the commission as defendant, to determine the validity and reasonableness of any provision of this chapter or of the rules and regulations made in pursuance thereof or of any order directing compliance therewith, provided that no such action to determine the validity or reasonableness of any rule, regulation or order shall be brought, except as an appeal from the determination of the commission, as provided in section fifty-two-a.

2. If the action is an appeal from a determination of the commission the commission shall file with the clerk of the court a certified copy of the record of its hearing in the matter, and if the appeal is from a determination of the commission refusing a hearing on the ground that the issues have been determined in a prior proceeding, the commission shall also file with the clerk of the court a certified copy of the records of its hearings in the prior proceedings.

3. Such action shall have precedence over other actions in the same court in accordance with the provisions of subdivision one of section seven hundred and ninety-one of the code of civil procedure.

4. The court shall thereafter try the issues and render its decision based upon the record of the commission's hearings as well as the evidence submitted in the action before it. The court may refer any issue arising in such action to the commission for further consideration. At any time during such action the party appealing from the commission's decision shall have the right to apply, without notice, to the court for an order directing all questions of fact arising upon one or more specified issues to be tried and determined by a jury, and the court shall thereupon cause these questions to be distinctly and plainly stated for trial accordingly, and the findings of the jury upon such questions so stated shall be conclusive in the action. Appeals from the supreme court to the appellate division of the supreme court and to the court of appeals may be taken in such cases and subject to the same limitations as in other cases. [*Section 52-b added by L. 1915, ch. 674.*]

§ 52-c. Limited review of provisions of chapter and of rules, regulations and orders.—1. Every provision of this chapter and of the rules and regulations made in pursuance thereof, and every order directing compliance therewith shall be valid and in full force and effect unless declared invalid in a proceeding for review brought under the provisions of section fifty-two-a. Except as provided in section fifty-two-b no court shall have jurisdiction to review, reverse or annul any such provision or order or to enjoin, restrain or interfere with its enforcement.

2. Every such provision or order shall in a prosecution or action to impose a penalty for its violation be deemed valid and in full force and effect, unless prior to the commencement of the prosecution or action such provision or order has been revoked, or modified by the commission, or annulled by a court having jurisdiction thereof, in proceedings brought under the provisions of sections fifty-two-a or fifty-two-b, or unless such proceedings are pending in which case the prosecution or action shall be stayed by the court and abide the final determination thereof. If any such prosecution or action is commenced against a defendant who has not previously been served with an order to comply with such provision, or who has been served with such an order but has

not had a reasonable opportunity to comply therewith, and if within five days the defendant commences proceedings under the provisions of sections fifty-two-a or fifty-two-b, the prosecution or action shall be stayed as if such proceedings had been pending at the time it was commenced. [Section 52-c added by L. 1915, ch. 674.]

§ 52-d. Variations.— If in the opinion of the commission there shall be practical difficulties in carrying out the strict letter of a provision of this chapter or of a rule or regulation adopted by the commission affecting the construction or alteration of buildings and structural changes therein, the installation of fixtures and apparatus safeguarding the machinery and prevention of accidents, a variation from or modification of its requirements so that the spirit of the provision or rule or regulation shall be observed, public safety secured and substantial justice done, may be permitted by the commission as provided by this section. The person affected by such provision or rule or regulation or his agent may petition the commission for one or more such variations or modifications stating the grounds therefor. The commission shall fix a day within a reasonable time for a hearing on the petition and upon the hearing the petitioner may appear in person or by agent or attorney. The decision of the commission shall be rendered promptly and shall be final. A copy of the petition and the decision shall be filed by the secretary of the commission in his office and if the petition be allowed wholly or in part a certificate stating the reason for such allowance shall be filed in like manner.

Powers conferred upon the commission by this section shall be subject to the requirement of this chapter that all places to which it applies shall be so constructed, equipped, arranged, operated and conducted in all respects as to provide reasonable and adequate protection to the lives, health and safety of all persons employed therein. [Added by L. 1915, ch. 674.]

This section, being of earlier enactment, is superseded by § 52-a, *ante*, relative to variations: Opinion of Attorney-General, June 1, 1915.

§ 52-e. Protection of employees.— The commission shall render all aid and assistance necessary for the enforcement of any claim by an employee against his employer which the commission finds reasonable and just and for the protection of employees from frauds, extortions, exploitation, or other improper practices on the part of any person, public or private; and shall investigate such cases for the purpose of presenting the facts to the proper authorities and of inducing action thereon by the various agencies of the state possessing the requisite jurisdiction. [Added by L. 1915, ch. 674.]

ARTICLE 4

[Formerly article 5, sections 60-68; renumbered by L. 1913, ch. 145]

Bureau of Inspection

Section 53. Bureau of inspection; inspector general; divisions.

54. Inspectors.

55. Division of factory inspection; factory inspection districts; chief factory inspectors.

56. Idem; general powers and duties.

57. Division of homework inspection.

58. Division of mercantile inspection.

59. Idem; general powers and duties.

60. Division of industrial hygiene.

61. Section of medical inspection.

§ 53. Bureau of inspection; inspector general; divisions.—The bureau of inspection, subject to the supervision and direction of the commissioner of labor, shall have charge of all inspections made pursuant to the provisions of this chapter, and shall perform such other duties as may be assigned to it by the commissioner of labor. The first deputy commissioner of labor shall be the inspector general of the state, and in charge of this bureau subject to the direction and supervision of the commissioner of labor, except that the division of industrial hygiene shall be under the immediate direction and supervision of the commissioner of labor. Such bureau shall have four divisions as follows: factory inspection, homework inspection, mercantile inspection and industrial hygiene. There shall be such other divisions in such bureau as the commissioner of labor may deem necessary. In addition to their respective duties as prescribed by the provisions of this chapter, such divisions shall perform such other duties as may be assigned to them by the commissioner of labor. [Added by L. 1913, ch. 145.]

§ 54. Inspectors.—1. Factory inspectors. There shall be not less than one hundred and twenty-five factory inspectors, not more than thirty of whom shall be women. Such inspectors shall be appointed by the commissioner of labor and may be removed by him at any time. The inspectors shall be divided into seven grades. Inspectors of the first grade, of whom there shall be not more than ninety-five, shall each receive an annual salary of one thousand two hundred dollars; inspectors of the second grade, of whom there shall be not more than fifty, shall each receive an annual salary of one thousand five hundred dollars; inspectors of the third grade, of whom there shall be not more than twenty-five, shall each receive an annual salary of one thousand eight hundred dollars; inspectors of the fourth grade, of whom there shall be not more than ten, shall each receive an annual salary of two thousand dollars and shall be attached to the division of industrial hygiene and act as investigators in such division; inspectors of the fifth grade, of whom there shall be not more than nine, one of whom shall be able to speak and write at least five European languages in addition to English, shall each receive an annual salary of two thousand five hundred dollars and shall act as supervising inspectors; inspectors of the sixth grade, of whom there shall be not less than three and one of whom shall be a woman, shall act as medical inspectors and shall each receive

an annual salary of two thousand five hundred dollars; inspectors of the seventh grade, of whom there shall be not less than four, shall each receive an annual salary of three thousand five hundred dollars; all of the inspectors of the sixth grade shall be physicians duly licensed to practice medicine in the state of New York. Of the inspectors of the seventh grade one shall be a physician duly licensed to practice medicine in the state of New York, and he shall be the chief medical inspector; one shall be a chemical engineer; one shall be a mechanical engineer, and an expert in ventilation and accident prevention; and one shall be a civil engineer, and an expert in fire prevention and building construction. [*Subd. 1 am'd by L. 1911, ch. 729; L. 1912, ch. 158; and L. 1913, ch. 145.*]

2. Mercantile inspectors. The commissioner of labor may appoint from time to time not more than twenty mercantile inspectors not less than four of whom shall be women and who may be removed by him at any time. The mercantile inspectors may be divided into three grades but not more than five shall be of the third grade. Each mercantile inspector of the first grade shall receive an annual salary of one thousand dollars; of the second grade an annual salary of one thousand two hundred dollars; and of the third grade an annual salary of one thousand five hundred dollars. [*Subd. 2 derived from former § 181, repealed by L. 1913, ch. 145, § 15; added by L. 1913, ch. 145.*]

§ 55. Division of factory inspection; factory inspection districts; chief factory inspectors.—For the inspection of factories, there shall be two inspection districts to be known as the first factory inspection district and the second factory inspection district. The first factory inspection district shall include the counties of New York, Bronx, Kings, Queens, Richmond, Nassau and Suffolk. The second factory inspection district shall include all the other counties of the state. There shall be two chief factory inspectors who shall be appointed by the commissioner of labor and who may be removed by him at any time and each of whom shall receive a salary of four thousand dollars a year. The inspection of factories in each factory inspection district shall, subject to the supervision and direction of the commissioner of labor, be in charge of a chief factory inspector assigned to such district by the commissioner of labor. The commissioner of labor may designate one of the supervising inspectors as assistant chief factory inspector for the first district, and while acting as such assistant chief factory inspector shall receive an additional salary of five hundred dollars per annum. [*Added by L. 1913, ch. 145.*]

§ 56. *Idem*; general powers and duties.—1. The commissioner of labor shall, from time to time, divide the state into sub-districts, assign one factory inspector of the fifth grade to each sub-district as supervising inspector, and may in his discretion transfer such supervising inspector from one sub-district to another; he shall from time to time, assign and transfer factory inspectors to each factory inspection district and to any of the divisions of the bureau of inspection; he may assign any factory inspector to inspect any special class or classes of factories or to enforce any special provisions of this chapter; and he may assign any one or more of them to act as clerks in any office of the department. [*Subd. 1 am'd by L. 1911, ch. 729; and L. 1913, ch. 145.*]

2. The commissioner of labor may authorize any deputy commissioner or assistant and any agent or inspector in the department of labor to act as a factory inspector with the full power and authority thereof. [*Subd. 2 am'd by L. 1913, ch. 145.*]

3. The commissioner of labor, the first deputy commissioner of labor and his assistant or assistants, and every factory inspector and every person duly authorized pursuant to sub-division two of this section may, in the discharge of his duties enter any place, building or room which is affected by the provisions of this chapter and may enter any factory whenever he may have reasonable cause to believe that any labor is being performed therein. [*Subd. 3 am'd by L. 1911, ch. 729; and L. 1913, ch. 145.*]

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the factories, during reasonable hours, as often as practicable, and shall cause the provisions of this chapter and the rules and regulations of the industrial board to be enforced therein. [*Subd. 4 am'd by L. 1913, ch. 145.*]

5. Any lawful municipal ordinance, by-law or regulation relating to factories, in addition to the provisions of this chapter and not in conflict therewith, may be observed and enforced by the commissioner of labor.

See note to § 79-g, *post*.

The commissioner of labor may also assign duties to the inspectors of steam vessels when transferred by the superintendent of public works in accordance with the Navigation Law (ch. 37 of the Consolidated Laws) as follows:

§ 3. Duties of superintendent of public works.—The superintendent of public works shall superintend the administration of the provisions of this article, appoint the inspectors provided for in this act and exercise supervision over them in the performance of their duties so far as the same relate to the administration and enforcement of the provisions of this article. During such periods of the year as in the judgment of the superintendent of public works, the services of the inspectors provided to be appointed by this article shall not be needed in the administration of the provisions of this article, he may, upon request of the commissioner of labor, for temporary periods, transfer such inspectors to the department of labor, and during the periods in which said inspectors are so transferred, they shall be subject to the jurisdiction of the commissioner of labor and subject to detail by him as experts in the administration of the labor law. The necessary traveling expenses of said inspectors while acting under the jurisdiction of the commissioner of labor shall be paid from the funds appropriated for the administration of the department of labor, and their salaries shall be paid, as hereinafter provided, by the superintendent of public works, their vouchers to be approved by the commissioner of labor.

§ 57. Division of homework inspection.—The division of homework inspection shall be in charge of an officer or employee of the department of labor designated by the commissioner of labor and shall, subject to the supervision and direction of the commissioner of labor, have charge of all inspections of tenement houses and of labor therein and of all work done for factories at places other than such factories. [*Added by L. 1913, ch. 145.*]

§ 58.* Division of mercantile inspection.—The division of mercantile inspection shall be under the immediate charge of the chief mercantile inspector, but subject to the direction and supervision of the commissioner of labor. The chief mercantile inspector shall be appointed and be at pleasure removed

* Sections 58 and 59 were derived from former sections 180 and 182, repealed by L. 1913, ch. 143, § 15.

by the commissioner of labor, and shall receive an annual salary not to exceed four thousand dollars. [Added by L. 1913, ch. 145; am'd by L. 1914, ch. 333.]

§ 59.* *Id.*; general powers and duties.—1. The commissioner of labor may divide the cities of the first and second class of the state into mercantile inspection districts, assign one or more mercantile inspectors to each such district, and may in his discretion transfer them from one such district to another; he may assign any of them to inspect any special class or classes of mercantile or other establishments specified in article twelve of this chapter, situated in cities of the first and second class, or to enforce in cities of the first or second class any special provision of such article. [Added by L. 1913, ch. 145.]

2. The commissioner of labor may authorize any deputy commissioner or assistant and any agent or inspector in the department of labor to act as a mercantile inspector with the full power and authority thereof. [Added by L. 1913, ch. 145.]

3. The commissioner of labor, the chief mercantile inspector and his assistant or assistants and every mercantile inspector or acting mercantile inspector may in the discharge of his duties enter any place, building or room in cities of the first or second class which is affected by the provisions of article twelve of this chapter, and may enter any mercantile or other establishment specified in said article, situated in the cities of the first or second class, whenever he may have reasonable cause to believe that it is affected by the provisions of article twelve of this chapter. [Added by L. 1913, ch. 145.]

4. The commissioner of labor shall visit and inspect or cause to be visited and inspected the mercantile and other establishments specified in article twelve of this chapter situated in cities of the first and second class, as often as practicable, and shall cause the provisions of said article and the rules and regulations of the industrial board to be enforced therein. [Added by L. 1913, ch. 145.]

5. Any lawful municipal ordinance, by-law or regulation relating to mercantile or other establishments specified in article twelve of this chapter, in addition to the provisions of this chapter and not in conflict therewith, may be enforced by the commissioner of labor in cities of the first and second class. [Added by L. 1913, ch. 145.]

§ 60. Division of industrial hygiene.—The inspectors of the seventh grade shall constitute the division of industrial hygiene, which shall be under the immediate charge of the commissioner of labor. The commissioner of labor may select one of the inspectors of the seventh grade to act as the director of such division, and such director while acting in that capacity shall receive an additional compensation of five hundred dollars a year. The members of the division of industrial hygiene shall make special inspections of factories, mercantile establishments and other places subject to the provisions of this chapter, throughout the state, and shall conduct special investigations of industrial processes and conditions. The commissioner of labor shall

* Sections 58 and 59 were derived from former sections 180 and 182, repealed by L. 1913, ch. 145, § 15.

submit to the industrial board the recommendations of the division regarding proposed rules and regulations and standards to be adopted to carry into effect the provisions of this chapter and shall advise said board concerning the operation of such rules and standards and as to any changes or modifications to be made therein. The members of such division shall prepare material for leaflets and bulletins calling attention to dangers in particular industries and the precautions to be taken to avoid them; and shall perform such other duties and render such other services as may be required by the commissioner of labor. The director of such division shall make an annual report to the commissioner of labor of the operation of the division, to which may be attached the individual reports of each member of the division as above specified, and same shall be transmitted to the legislature as part of the annual report of the commissioner of labor. [*Added by L. 1913, ch. 145.*]

§ 61. Section of medical inspection.—The inspectors of the sixth grade shall constitute the section of medical inspection which shall, subject to the supervision and direction of the director of the division of industrial hygiene, be under the immediate charge of the chief medical inspector. The section of medical inspection shall inspect factories, mercantile establishments and other places subject to the provisions of this chapter throughout the state with respect to conditions of work affecting the health of persons employed therein and shall have charge of the physical examination and medical supervision of all children employed therein and shall perform such other duties and render such other services as the commissioner of labor may direct. [*Added by L. 1913, ch. 145.*]

ARTICLE 5

[Formerly article 4, sections 55-58; renumbered by L. 1913, ch. 145]

Bureau of Statistics and Information

Section 62. Bureau of statistics and information.

63. Divisions; duties and powers.

64. Information to be furnished upon request.

65. Industrial poisoning to be reported.

§ 62. Bureau of statistics and information.—The bureau of statistics and information, shall be under the immediate charge of a chief statistician, but subject to the direction and supervision of the commissioner of labor. [*As am'd by L. 1913, ch. 145.*]

Compare § 42, *ante*.

§ 63. Divisions; duties and powers.—1. The bureau of statistics and information shall have five divisions as follows: general labor statistics; industrial directory; industrial accidents and diseases; special investigations; and printing and publication. There shall be such other divisions in such bureau as the commissioner of labor may deem advisable. Each of the said divisions shall, subject to the supervision and direction of the commissioner of labor and of the chief statistician, be in charge of an officer or employee of the department of labor designated by the commissioner of labor; and each of the said divisions, in addition to the duties prescribed in this chapter, shall perform such other duties as may be assigned to it by the commissioner of labor. [*Subd. 1 added by L. 1913, ch. 145.*]

2. The division of general labor statistics shall collect, and prepare statistics and general information in relation to conditions of labor and the industries of the state. [*Subd. 2 am'd by L. 1913, ch. 145.*]

3. The division of industrial directory shall prepare annually an industrial directory for all cities and villages having a population of one thousand or more according to the last preceding federal census or state enumeration. Such directory shall contain information regarding opportunities and advantages for manufacturing in every such city or village, the factories established therein, hours of labor, housing conditions, railroad and water connections, water power, natural resources, wages and such other data regarding social, economic and industrial conditions as in the judgment of the commissioner would be of value to prospective manufacturers, and their employees. If a city is divided into boroughs the directory shall contain such information as to each borough. [*Subd. 3 added by L. 1913, ch. 145.*]

4. The division of industrial accidents and diseases shall collect and prepare statistical details and general information regarding industrial accidents and occupational diseases, their causes and effects, and methods of preventing, curing and remedying them, and of providing compensation therefor. [*Subd. 4 added by L. 1913, ch. 145.*]

5. The division of special investigations shall have charge of all investigations and research work relating to economic and social conditions of labor conducted by such bureau. [*Subd. 5 added by L. 1913, ch. 145.*]

6. The division of printing and publication shall print, publish and disseminate in such manner and to such extent as the commissioner of labor shall direct, such information and statistics as the commissioner of labor may direct for the purpose of promoting the health, safety and well being of persons employed at labor. [*Subd. 6 added by L. 1913, ch. 145.*]

7. The commissioner of labor may subpoena witnesses, take and hear testimony, take or cause to be taken depositions and administer oaths. [*Subd. 7 am'd by L. 1913, ch. 145. Section 63, formerly section 56, renumbered and am'd by L. 1913, ch. 145.*]

Subpoena, how issued, Code of Civil Procedure, § 854; how served, *id.*, § 852; fees, *id.*, § 8318.

Duties and powers discussed, *People v. Peck*, 138 N. Y. 396, which held the commissioner of labor statistics to be a public officer within the meaning of § 2050 of the Penal Law.

L. 1911, ch. 152, makes the commissioner of labor or such state official as the governor may designate, *ex-officio* trustee of the American Museum of Safety. L. 1914, ch. 466, authorizes the city of New York to appropriate not to exceed fifty thousand dollars a year to the American Museum of Safety upon condition, that its exhibits be kept open to the public free of charge throughout the year and that its trustees publish and distribute among such schools of the state as the commissioner of education and the commissioner of labor may designate manuals of safety and hygiene and reading lectures on accident prevention and industrial hygiene.

§ 64. Information to be furnished upon request.—The owner, operator, manager or lessee of any mine, factory, workshop, warehouse, elevator, foundry, machine shop or other manufacturing establishment, or any agent, superintendent, subordinate, or employee thereof, and any person employing or directing any labor affected by the provisions of this chapter, shall, when requested by the commissioner of labor, furnish any information in his possession or under his control which the commissioner is authorized to require, and shall admit him or his duly authorized representative to any place which is affected by the provisions of this chapter for the purpose of inspection. A person refusing to admit such commissioner, or person authorized by him, to any such establishment, or to furnish him any information requested, or who refuses to answer or untruthfully answers questions put to him by such commissioner, in a circular or otherwise, shall forfeit to the people of the state the sum of one hundred dollars for each refusal or untruthful answer given, to be sued for and recovered by the commissioner in his name of office. The amount so recovered shall be paid into the state treasury. [*As am'd by L. 1913, ch. 145.*]

§ 65. Industrial poisonings to be reported.—1. Every medical practitioner attending on or called in to visit a patient whom he believes to be suffering from poisoning from lead, *phosphorous, arsenic, brass, wood alcohol, mercury or their compounds, or from anthrax, or from compressed air illness, contracted as the result of the nature of the patient's employment, shall send to the commissioner of labor a notice stating the name and full postal address and place of employment of the patient and the disease from which, in the opinion of the medical practitioner, the patient is suffering, with such other and further information as may be required by the said commissioner. [*Subd. 1 am'd by L. 1913, ch. 145.*]

2. If any medical practitioner, when required by this section to send a notice, fails forthwith to send the same, he shall be liable to a fine not exceeding ten dollars.

3. It shall be the duty of the commissioner of labor to enforce the provisions of this section, and he may call upon the state and local boards of health for assistance. [*Section added as section 58 by L. 1911, ch. 258; am'd and renumbered section 65 by L. 1913, ch. 145.*]

* So in original.

ARTICLE 5-A

[Added by L. 1914, ch. 181]

Bureau of Employment*

Section 66. Director.

- 66-a. Public employment offices.
- 66-b. Purpose.
- 66-c. Officers.
- 66-d. Registration of applicants.
- 66-e. Reports of superintendents.
- 66-f. Advisory committees.
- 66-g. Notice of strikes or lockouts.
- 66-h. Applicants not to be disqualified.
- 66-i. Departments.
- 66-j. Juveniles.
- 66-k. Co-operation of public employment.
- 66-l. Advertising.
- 66-m. Service to be free.
- 66-n. Penalties.
- 66-o. Labor market bulletin.
- 66-p. Information †for employment agencies.

§ 66. Director.—The bureau of employment shall be under the immediate charge of a director who shall have recognized executive and managerial ability, technical and scientific knowledge upon the subject of unemployment and administration of public employment offices and recognized capacity to direct investigations of unemployment and public and private agencies for remedying the same. The civil service examination for the position of director shall be such as to test whether candidates have the above qualifications. As a part of such examination each candidate shall be required to submit a detailed plan of organization and administration of employment offices such as are contemplated by this article.

§ 66-a. Public employment offices.—The commissioner of labor shall establish such public employment offices, and such branch offices, as may be necessary to carry out the purpose of this article.

§ 66-b. Purpose.—The purpose of such offices shall be to bring together all kinds and classes of workmen in search of employment and employers seeking labor.

§ 66-c. Officers.—Each office shall be in charge of a superintendent, who shall be subject to the supervision and direction of the director. Such other employees shall be provided as may be necessary for the proper administration of the affairs of the office.

§ 66-d. Registration of applicants.—The superintendent of every public employment office shall receive applications from those seeking employment and from those seeking employees and shall register every applicant on properly arranged cards or forms provided by the commissioner of labor.

§ 66-e. Reports of superintendents.—Each superintendent shall make to the director such periodic reports of applications for labor or employment and all other details of the work of each office, and the expenses of maintaining the same, as the commissioner of labor may require.

* For regulation of private employment agencies, see pp. 343-353, *post*.

† So in original.

§ 66-f. Advisory committees.—The commissioner of labor shall appoint for each public employment office an advisory committee, whose duty it shall be to give the superintendent advice and assistance in connection with the management of such employment office. The superintendent shall consult from time to time with the advisory committee attached to his office. Such advisory committee shall be composed of representative employers and employees with a chairman who shall be agreed upon by a majority of such employers and of such employees. Vacancies, however caused, shall be filled in the same manner as the original appointments. The advisory committees may appoint such subcommittees as they may deem advisable. At the request of a majority either of the employers or of the employees on advisory committees, the voting on any particular question shall be so conducted that there shall be an equality of voting power between the employers and the employees, notwithstanding the absence of any member. Except as above provided, every question shall be decided by a majority of the members present and voting on that question. The chairman shall have no vote on any question on which the equality of voting power has been claimed.

§ 66-g. Notice of strikes or lockouts.—An employer, or a representative of employers or employees may file at a public employment office a signed statement with regard to the existence of a strike or lockout affecting their trade. Such a statement shall be exhibited in the employment office, but not until it has been communicated to the employers affected, if filed by employees, or to the employees affected, if filed by employers. In case of a reply being received to such a statement, it shall also be exhibited in the employment office. If any employer affected by a statement notifies the public employment office of a vacancy or vacancies, the officer in charge shall advise any applicant for such vacancy or vacancies of the statements that have been made.

§ 66-h. Applicants not to be disqualified.—No person shall suffer any disqualification or be otherwise prejudiced on account of refusing to accept employment found for him through a public employment office, where the ground of refusal is that a strike or lockout exists which affects the work, or that the wages are lower than those current in the trade in that particular district or section where the employment is offered.

§ 66-i. Departments.—The commissioner of labor may organize in any office separate departments with separate entrances for men, women and juveniles; these departments may be subdivided into a division for farm labor and such other divisions for different classes of work as may in his judgment be required.

§ 66-j. Juveniles.—Applicants for employment who are between the ages of fourteen and eighteen years shall register upon special forms provided by the commissioner of labor. Such applicants upon securing their employment certificates as required by law, may be permitted to register at a public or other recognized school and when forms containing such applications are transmitted to a public employment office they shall be treated as equivalent to personal registration. The superintendent of each public employment office shall co-operate with the school principals in endeavoring to secure suitable positions for children who are leaving the schools to begin work. To this end he shall transmit to the school principals a sufficient number of application forms to enable all pupils to register who desire to do so; and such

principals shall acquaint the teachers and pupils with the purpose of the public employment office in placing juveniles. The advisory committee shall appoint special committees on juvenile employment which shall include employers, workmen, and persons possessing experience or knowledge of education, or of other conditions affecting juveniles. It shall be the duty of these special committees to give advice with regard to the management of the public employment offices to which they are attached in regard to juvenile applicants for employment. Such committees may take steps either by themselves or in co-operation with other bodies or persons to give information, advice and assistance to boys and girls and their parents with respect to the choice of employment and other matters bearing thereon.

§ 66-k. Co-operation of public employment offices.—The commissioner of labor shall arrange for the co-operation of the offices created under this article in order to facilitate, when advisable, the transfer of applicants for work from places where there is an oversupply of labor to places where there is a demand. To this end he shall cause lists of vacancies furnished to the several offices, as herein provided, to be prepared and shall supply them to newspapers and other agencies for disseminating information, in his discretion, and to the superintendents of the public employment offices. The superintendent shall post these lists in conspicuous places, so that they may be open to public inspection.

§ 66-l. Advertising.—The commissioner of labor shall have power to solicit business for the public employment offices established under this article by advertising in newspapers and in any other way that he may deem expedient, and to take any other steps that he may deem necessary to insure the success and efficiency of such offices; provided, that the expenditure under this section for advertising shall not exceed five per centum of the total expenditure for the purposes of this article.

§ 66-m. Service to be free.—No fees direct or indirect shall in any case be charged to or received from those seeking the benefits of this article.

§ 66-n. Penalties.—Any superintendent or clerk, subordinate or appointee, appointed under this article, who shall accept directly or indirectly any fee, compensation or gratuity from any one seeking employment or labor under this article, shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in jail for a term not exceeding six months, or both, and shall thereafter be disqualified from holding any office or position in such bureau.

§ 66-o. Labor market bulletin.—The bureau of statistics and information of the department of labor shall publish a bulletin in which shall be made public all possible information with regard to the state of the labor market including reports of the business of the various public employment offices.

§ 66-p. Information from employment agencies.—For the purposes specified in the foregoing section every employment office or agency, other than those established under this article, shall keep a register of applicants for work and applicants for help in such form as may be required by the commissioner of labor in order to afford the same information as that supplied by state offices. Such register shall be subject to inspection by the commissioner of labor and information therefrom shall be furnished to him at such times and in such form as he may require.

ARTICLE 6

Factories

[*The Penal Law, § 1275, p. 222, post, makes it a misdemeanor to violate or refuse to comply with the provisions of this article, which are to be strictly construed. Murphy v. Bennett, 11 App. Div. 298. For the rules of the industrial code on factories, see pp. 147-219, post.*]

Section 69. Registration of factories.

70. Employment of minors.

71. Employment certificate how issued.

72. Contents of certificate.

73. School record, what to contain.

75. Supervision over issuance of certificates.

76. Registry of children employed.

76-a. Physical examination of children in factories; cancellation of employment certificates.

77. Hours of labor of children, minors and women.

78. Exceptions.

79. Elevators and hoistways.

79-a. Construction of factory buildings hereafter erected.

79-b. Requirements for existing buildings.

79-c. Additional requirements common to buildings heretofore and hereafter erected.

79-d. Effect of foregoing provisions; inspection of buildings and approval of plans.

79-e. Limitation of number of occupants.

79-f. Meaning of terms.

81. Protection of employees operating machinery; dust-creating machinery; lighting of factories and workrooms.

83-a. Fire alarm signal systems and fire drills.

83-b. Automatic sprinklers.

83-c. Fire proof receptacles; gas jets; smoking.

84. Cleanliness of rooms.

84-a. Cleanliness of factory buildings.

85. Size of rooms.

86. Ventilation.

87. Accidents to be reported.

88. Drinking water, wash-rooms and dressing rooms.

88-a. Water closets.

89. Time allowed for meals.

89-a. Prohibition against eating meals in certain work rooms.

90. Inspection of factory buildings.

92. Laundries.

93. Prohibited employment of women and children.

93-a. Employment of females after childbirth prohibited.

93-b. Period of rest at night for women.

94. Tenant-factories.

95. Unclean factories.

96. Definition of "custodian."

97. Brass, iron and steel foundries.

98. Labor camps.

99. Dangerous trades.

99-a. Laws to be posted.

§ 69. Registration of factories.—The owner of every factory shall register such factory with the state department of labor, giving the name of the owner, his home address, the address of the business, the name under which it is carried on, the number of employees and such other data as the commissioner of labor may require. Such registration of existing factories shall

be made within six months after this section takes effect. Factories hereafter established shall be so registered within thirty days after the commencement of business. Within thirty days after a change in the location of a factory the owner thereof shall file with the commissioner of labor the new address of the business, together with such other information as the commissioner of labor may require. [*Added by L. 1912, ch. 335.*]

§ 70. **Employment of minors.**—No child under the age of fourteen years shall be employed, permitted or suffered to work in or in connection with any factory in this state, or for any factory at any place in this state. No child between the ages of fourteen and sixteen years shall be so employed, permitted or suffered to work unless an employment certificate, issued as provided in this article, shall have been theretofore filed in the office of the employer at the place of employment of such child. Nothing herein contained shall prevent a person engaged in farming from permitting his children to do farm work for him upon his farm. Boys over the age of twelve years may be employed in gathering produce, for not more than six hours in any one day, subject to the requirements of chapter twenty-one of the laws of nineteen hundred and nine, entitled "An act relating to education, constituting chapter sixteen of the consolidated laws," and all acts amendatory thereof. [*As am'd by L. 1913, ch. 529.*]

Compare §§ 161–162, *post*, and Education Law, §§ 626–628, p. 255, *post*.

The prohibition is absolute; lack of intent or knowledge not a defense: Opinion of Attorney-General, January 16, 1905; *City of New York v. Chelsea Jute Mills*, 43 Misc. 266, where it was held, March 24, 1904, that ignorance of the child's age and an honest belief on the part of the employer that it was over age, was no defense. But an officer of a corporation who has directed that no child shall be employed contrary to law is not liable if a subordinate, without his knowledge, illegally employs a child: *People v. Taylor*, 192 N. Y. 398 (1908).

Violation is a misdemeanor: Penal Law, § 1275, p. 222, *post*, and *prima facie* evidence of negligence on the part of an employer in an action against him: *Marino v. Lehmaier*, 173 N. Y. 530; *Koester v. Rochester Candy Works*, 194 N. Y. 92 (1909); *Sitts v. Walontha Co.*, 94 App. Div. 38; *Dragotto v. Plunkett*, 113 App. Div. 648; *Lee v. Sterling Silk Mfg. Co.*, 115 App. Div. 589 and 134 App. Div. 123; *Kenyon v. Sanford Mfg. Co.*, 199 App. Div. 570; *Fortune v. Hall*, 122 App. Div. 250; *Danaher v. American Mfg. Co.*, 126 App. Div. 385 (1908). Compare also § 202, *post*.

A child under fourteen years of age may not be employed in a factory or mercantile establishment which is owned or controlled by the child's parents: Opinion of Attorney-General, May 14, 1912.

For right of employer violating child labor requirements to recover from liability insurance company, see *Mason-Henry Press v. Aetna Life Insurance Co.*, 211 N. Y. 490.

§ 71. **Employment certificates, how issued.**—Such certificate shall be issued by the commissioner of health or the executive officer of the board or department of health of the city, town or village where such child resides, or is to be employed, or by such other officer thereof as may be designated by such board, department or commissioner for that purpose, upon the application of the parent or guardian or custodian of the child desiring such employment. Such officer shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed, viz.: The school record of such child properly filled out and signed as provided in this article; also evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence

thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) Birth certificate: A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births, which certificate shall be conclusive evidence of the age of such child.

(b) Certificate of graduation: A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) Passport or baptismal certificate: A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) Other documentary evidence: In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested, and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section, and that none of the papers mentioned in said subdivisions can be produced, then and not otherwise he shall present to the board of health of which he is an officer or agent, for its action thereon, a statement signed by him showing such facts, together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) Physicians' certificates: In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent, guardian or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining the age of such child. Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise the officer may direct such child to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion

such child is at least fourteen years of age such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child further has personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. Every such employment certificate shall be signed, in the presence of the officer issuing the same, by the child in whose name it is issued. In every case, before an employment certificate is issued, such physical fitness shall be determined by a medical officer of the department or board of health, who shall make a thorough physical examination of the child and record the result thereof on a blank to be furnished for the purpose by the state commissioner of labor and shall set forth thereon such facts concerning the physical condition and history of the child as the commissioner of labor may require. [*As am'd by L. 1912, ch. 333.*]

Compare § 163, *post*.

The requirement of an examination as to physical fitness is of state-wide application and is not limited to cities of the first class: Opinion of Attorney-General, November 9, 1912.

The Penal Law, § 1275, p. 222, *post*, makes it a misdemeanor to make a false statement in relation to an application for an employment certificate.

§ 72. Contents of certificate.—Such certificate shall state the date and place of birth of the child, and describe the color of the hair and eyes, the height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

Compare § 164, *post*.

§ 73. School record, what to contain.—The school record required by this article shall be signed by the principal or chief executive officer of the school which such child has attended and shall be furnished, on demand, to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended

the public schools or schools equivalent thereto, or parochial schools, for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday, or during the twelve months next preceding his application for such school record and is able to read and write simple sentences in the English language, and has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions and has completed the work prescribed for the first six years of the public elementary school or school equivalent thereto or parochial school from which such school record is issued. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parent or guardian or custodian. [*As am'd by L. 1913, ch. 144.*]

Compare § 165, *post*, and Education Law, §§ 629, 630, p. 256, *post*.

§ 75. Supervision over issuance of certificates.—The board or department of health or health commissioner of a city, village or town, shall transmit, between the first and tenth day of each month, to the commissioner of labor, a list of the names of all children to whom certificates have been issued during the preceding month together with a duplicate of the record of every examination as to the physical fitness, including examinations resulting in rejection.

In cities of the first and second class all employment certificates and school records required under the provisions of this chapter shall be in such form as shall be approved by the commissioner of labor. In towns, villages or cities other than cities of the first or second class, the commissioner of labor shall prepare and furnish blank forms for such employment certificates and school records. No school record or employment certificate required by this article, other than those approved or furnished by the commissioner of labor as above provided, shall be used. The commissioner of labor shall inquire into the administration and enforcement of the provisions of this article by all public officers charged with the duty of issuing employment certificates, and for that purpose the commissioner of labor shall have access to all papers and records required to be kept by all such officers. [*As am'd by L. 1912, ch. 333, and L. 1913, ch. 144.*]

§ 76. Registry of children employed.—Each person owning or operating a factory and employing children therein shall keep or cause to be kept in the office of such factory, a register, in which shall be recorded the name, birth-place, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection upon the demand of the commissioner of labor. On termination of the employment of a child so registered, and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. The commissioner of labor may make demand on an employer in whose factory a child apparently under the age of sixteen years is employed on permitted or suffered to work, and whose employment certificate is not then filed as required by this article, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to

employ or permit or suffer such child to work in such factory. The commissioner of labor may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate; and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said factory, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such evidence of age furnished by the employer in response to such demand shall be filed with the commissioner of labor and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the commissioner of labor within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such factory, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed.

Compare § 167, *post*.

§ 76-a. Physical examination of children in factories; cancellation of employment certificates.—1. All children between fourteen and sixteen years of age employed in factories shall submit to a physical examination whenever required by a medical inspector of the state department of labor. The result of all such physical examinations shall be recorded on blanks furnished for that purpose by the commissioner of labor, and shall be kept on file in such office or offices of the department as the commissioner of labor may designate.

2. If any such child shall fail to submit to such physical examination, the commissioner of labor may issue an order cancelling such child's employment certificate. Such order shall be served upon the employer of such child who shall forthwith deliver to an authorized representative of the department of labor the child's employment certificate. A certified copy of the order of cancellation shall be served on the board of health or other local authority that issued the said certificate. No such child whose employment certificate has been cancelled, as aforesaid, shall, while said cancellation remains unrevoked, be permitted or suffered to work in any factory of the state before it attains the age of sixteen years. If thereafter such child shall submit to the physical examination required, the commissioner of labor may issue an order revoking the cancellation of the employment certificate and may return the employment certificate to such child. Copies of the order of revocation shall be served upon the former employer of the child and the local board of health as aforesaid.

3. If as a result of the physical examination made by a medical inspector it appears that the child is physically unfit to be employed in a factory, such medical inspector shall forthwith submit a report to that effect to

the commissioner of labor which shall be kept on file in the office of the commissioner of labor, setting forth in detail his reasons therefor, and the commissioner of labor may issue an order cancelling the employment certificate of such child. Such order of cancellation shall be served, and the child's employment certificate delivered up, as provided in subdivision two hereof, and no such child while the said order of cancellation remains unrevoked shall be permitted or suffered to work in any factory of the state before it attains the age of sixteen years. If upon a subsequent physical examination of the child by a medical inspector of the department of labor it appears that the physical infirmities have been removed, such medical inspector shall certify to that effect to the commissioner of labor, and the commissioner of labor may thereupon make an order revoking the cancellation of the employment certificate and may return the certificate to such child. The order of revocation shall be served in the manner provided in subdivision two hereof. [*Section 76-a added by L. 1913, ch. 200.*]

§ 77. Hours of labor of children, minors and women.—1. No child under the age of sixteen years shall be employed or permitted to work in or in connection with any factory in this state before eight o'clock in the morning, or after five o'clock in the evening of any day, or for more than eight hours in any one day, or more than six days in any one week.

2. No male minor under the age of eighteen years shall be employed or permitted to work in any factory in this state more than six days or fifty-four hours in any one week, or for more than nine hours in any one day, except as hereinafter provided; nor between the hours of twelve midnight and four o'clock in the morning. [*Subd. 2 am'd by L. 1912, ch. 539.*]

3. No female minor under the age of twenty-one years and no woman shall be employed or permitted to work in any factory in this state more than six days or fifty-four hours in any one week; nor for more than nine hours in any one day except as hereinafter provided. No female minor under the age of twenty-one years shall be employed or permitted to work in any factory in this state before six o'clock in the morning or after nine o'clock in the evening of any day. [*Subd. 3 am'd by L. 1912, ch. 539; and L. 1913, ch. 465.*]

The limitation of the working hours of women to fifty-four per week is constitutional: *People ex rel. Hoelderlin v. Kane*, 79 Misc. 140.

4. A printed notice, in a form which shall be furnished by the commissioner of labor, stating the number of hours per day for each day of the week required of such persons, and the time when such work shall begin and end, shall be kept posted in a conspicuous place in each room where they are employed. But such persons may begin their work after the time for beginning and stop before the time for ending such work, mentioned in such notice, but they shall not otherwise be employed, permitted or suffered to work in such factory except as stated therein. The terms of such notice shall not be changed after the beginning of labor on the first day of the week without the consent of the commissioner of labor. The presence of such persons in the factory at any other hours than those stated in the printed notice, or if no such notice be posted, before seven o'clock in the morning or after six o'clock in the evening, shall constitute *prima facie* evidence of a violation of this section.

5. In a factory wherein, owing to the nature of the work, it is practically impossible to fix the hours of labor weekly in advance the commissioner of labor, upon a proper application stating facts showing the necessity therefor, shall grant a permit dispensing with the notice hereinbefore required, upon condition that the daily hours of labor be posted for the information of employees and that a time book in a form to be approved by him, giving the names and addresses of all female employees and the hours worked by each of them in each day, shall be properly and correctly kept, and shall be exhibited to him or any of his subordinates promptly upon demand. Such permit shall be kept posted in such place in such factory as such commissioner may prescribe, and may be revoked by such commissioner at any time for failure to post it or the daily hours of labor or to keep or exhibit such time book as herein provided.

6. Where a female or male minor is employed in two or more factories or mercantile establishments in the same day or week the total time of employment must not exceed that allowed per day or week in a single factory or mercantile establishment; and any person who shall require or permit a female to work in a factory between the hours of six o'clock in the evening and seven o'clock in the morning in violation of the provisions of this subdivision of this section, with or without knowledge of the previous or other employment, shall be liable for a violation thereof.

The part of this section prohibiting employment of women over 21 years of age between 9 P. M. and 6 A. M. is unconstitutional: *People v. Williams*, 180 N. Y. 131 (1907); but compare note to § 93-b, *post*. Relative to hours of children, compare §§ 161, 161-a, *post*.

§ 78. Exceptions.—1. A female sixteen years of age or upwards and a male between the ages of sixteen and eighteen may be employed in a factory more than nine hours a day: (a) regularly in not to exceed five days a week, in order to make a short day or holiday on one of the six working days of the week; (b) irregularly in not to exceed three days a week; provided that no such person shall be required or permitted to work more than ten hours in any one day or more than fifty-four hours in any one week, and that the provisions of the preceding section as to notice or time book be fully complied with.

2. The provisions of subdivision two of section seventy-seven relating to maximum hours shall not apply to the employment of male minors sixteen years of age and upwards in canning or preserving perishable products in fruit and canning establishments between the fifteenth day of June and the fifteenth day of October each year. [*Subd. 2 added by L. 1912, ch. 539; am'd by L. 1913, ch. 465.*]

3. A female eighteen years of age or upwards may, notwithstanding the provisions of subdivision three of section seventy-seven of this chapter, be employed in canning or preserving perishable products in fruit and canning establishments between the fifteenth day of June and the fifteenth day of October in each year not more than six days or sixty hours in any one week nor more than ten hours in any one day; and the industrial board shall have power to adopt rules and regulations permitting the employment of women eighteen years of age and upwards on such work in such establishments between the twenty-fifth day of June and the fifth day of August in each

year not more than six days nor more than sixty-six hours in any one week nor more than twelve hours in any one day, if said board shall find that such employment is required by the needs of such industry and can be permitted without serious injury to the health of women so employed. The provisions of this subdivision shall have no application unless the daily hours of labor shall be posted for the information of employees and a time book in a form approved by the commissioner of labor, giving the names and addresses of all female employees and the hours of work by each of them in each day shall be properly and correctly kept and shall be exhibited to him or any of his subordinates promptly upon demand. No person shall knowingly make or permit or suffer to be made a false entry in any such time book. [*Subd. 3 added by L. 1913, ch. 465.*]

Compare *Industria. Code*, Rule 1, p. 147, *post*. For sanitation of cannery labor camps, compare *Industrial Code*, Rules 200-232, pp. 164-167, *post*.

4. In a prosecution for a violation of any provision of this or of the preceding section the burden of proving a permit or exception shall be upon the party claiming it. [*Originally subd. 2; renumbered subd. 3 by L. 1912, ch. 539; renumbered subd. 4 by L. 1913, ch. 465.*]

§ 79. Elevators and hoistways.—1. Inclosure of shafts. Every hoistway, hatchway or wellhole used for carrying passengers or employees, or for freight elevators, hoisting or other purpose, shall be protected on all sides at each floor including the basement, by substantial vertical inclosures. All openings in such inclosures shall be provided with self-closing gates of suitable height, or with properly constructed sliding doors. In the case of elevators used for carrying passengers or employees, such inclosure shall be flush with the hatchway, and shall extend from floor to ceiling on every open side of the car, and on every other side shall be at least six feet high, and such inclosures shall be free from fixed obstructions on every open side of the car. In the case of freight elevators the inclosures shall be flush with the hoistway on every open side of the car. In place of the inclosures herein required for freight elevators, every hatchway used for freight elevator purposes may be provided with trap doors so constructed as to form a substantial floor surface when closed and so arranged as to open and close by the action of the car in its passage both ascending and descending; provided that in addition to such trap doors, the hatchway shall be adequately protected on all sides at all floors, including the basement, by a substantial railing or other vertical inclosure at least three feet in height. [*Subd. 1 am'd by L. 1913, ch. 202; and L. 1914, ch. 366.*]

2. Guarding of elevators and hoistways. All counter-weights of every elevator shall be adequately protected by proper inclosures at the top and bottom of the run. The car of all elevators used for carrying passengers or employees shall be substantially enclosed on all sides, including the top, and such car shall at all times be properly lighted, artificial illuminants to be provided and used when necessary. The top of every freight elevator car or platform shall be provided with a substantial grating or covering for the protection of the operator thereof, in accordance with such rules and regulations as may be adopted with reference thereto by the industrial board.

3. Elevators and hoistways in factory buildings hereafter erected. The provisions of subdivisions one and two of this section shall apply only to

factory buildings heretofore erected. In all factory buildings hereafter erected, every elevator and every part thereof and all machinery connected therewith and every hoistway, hatchway and well-hole shall be so constructed, guarded, equipped, maintained and operated as to be safe for all persons using the same.

4. Maintenance of elevators and hoistways in all factory buildings. In every factory building heretofore erected or hereafter erected, all inclosures, doors and gates of hoistways, hatchways or well-holes, and all elevators therein used for the carrying of passengers or employees or freight, and the gates and doors thereof shall at all times be kept in good repair and in a safe condition. All openings leading to elevators shall be kept well lighted at all times during working hours, with artificial illumination when necessary. The cable, gearing and other apparatus of elevators used for carrying passengers or employees or freight shall be kept in a safe condition.

5. Powers of industrial board. The industrial board shall have power to make rules and regulations not inconsistent with the provisions of this chapter regulating the construction, guarding, equipment, maintenance and operation of elevators and all parts thereof, and all machinery connected therewith and hoistways, hatchways and well-holes, in order to carry out the purpose and intention of this section. [Section 79 *am'd* by L. 1909, ch. 299; and L. 1913, ch. 202.]

For supplementary regulation of elevators and hoistways, see Industrial Code, Rules 400-445, pp. 184-191, *post*.

Violation is not only a misdemeanor: Penal Law, § 1275, p. 222, *post*, but renders master liable in case of injury to employees: § 202, *post*. The owner of a tenant factory cannot by any lease escape responsibility for observance of this section: § 94, *post*; compare also note to § 86, *post*.

§ 79-a. Construction of factory buildings hereafter erected.—No factory shall be conducted in any building hereafter erected more than one story in height unless such building shall conform to the following requirements:

1. All buildings more than four stories in height shall be of fireproof construction. The roofs of all buildings shall be covered with incombustible material or shall be of tar and slag or plastic cement supported by or applied to arches of fireproof material, and the cornices shall be constructed of incombustible material. All exterior walls within twenty-five feet of any non-fireproof building shall be not less than eight inches thick and shall extend three feet above the roof.

For definition of fireproof construction, see § 79-f, subd. 1, *post*; for supplementary regulation, see Industrial Code, Rule 500, p. 191, and Rule 508, p. 196, *post*.

2. Floor area and required exits. The term floor area as used in this section signifies the entire space between fire walls, or between a fire wall and an exterior wall of a building, or between the exterior walls of the building where there is no intervening fire wall. From every floor area there shall be not less than two means of exit remote from each other, one of which on every floor above the ground floor shall be an interior enclosed fireproof stairway or an exterior enclosed fireproof stairway, and the other shall be such a stairway or a horizontal exit. No point in any floor area shall be more than one hundred feet distant from the entrance to one such means of exit. Whenever any floor area exceeds five thousand square feet

there shall be provided at least one additional means of exit as hereinbefore described for each five thousand square feet or part thereof in excess of five thousand square feet. In every building over one hundred feet in height there shall be at least one exterior enclosed fireproof stairway which shall be accessible from any point in the building.

3. Stairways. All stairways shall be constructed of incombustible material and shall have an unobstructed width of at least forty-four inches throughout their length, except that hand rails may project not more than three and one-half inches into such width. There shall be not more than twelve feet six inches in height between successive landings. The treads shall be not less than ten inches wide exclusive of nosing, and the rise shall be not more than seven and three-fourths inches. No stairway with "winders" shall be allowed except as a connection from one floor to another. The treads shall be constructed and maintained in such manner as to prevent persons from slipping thereon. Every stairway shall be enclosed on all sides by fireproof partitions extending continuously from the lowest story to which such stairway extends to three feet above the roof and the roof of the enclosure shall be constructed of fireproof material at least four inches thick with a skylight at least three-fourths the area of the shaft. All stairways serving as required means of exit shall extend to the roof and shall lead continuously to the street or to a fireproof passageway independent of other means of exit from the building, opening on a road or street, or to an open area affording unobstructed passage to a road or street. All stairways that extend to the top story shall be continued to the roof. Provision shall be made for the adequate lighting of all stairways by artificial light.

For fireproof partition requirements, see § 79-f, subd. 5, *post*, and Industrial Code, Rule 501, p. 192, and Rule 509, p. 199, *post*; for stairway enclosure requirements, Industrial Code, Rule 2, p. 147, *post*.

4. Doors and doorways. All doors shall open outwardly. The width of the hallways and exit doors leading to the street, at the street-level, shall be not less than the aggregate width of all stairways leading to them. Every door leading to or opening on a stairway shall have an unobstructed width of at least forty-four inches.

5. Partitions. All partitions in the interior of buildings of fireproof construction shall be of incombustible material.

6. Openings to be enclosed. All elevator and dumb-waiter shafts, vent and light shafts, pipe and duct shafts, hoistways and all other vertical openings leading from one floor to another shall be enclosed throughout their height on all sides by enclosures of fireproof material. Every such enclosure shall have a roof of fireproof material and if the enclosure extends to the top story it shall be continued to three feet above the roof of the building and shall have at the top a skylight in a metal frame at least three-fourths of the area of the shaft or exterior window with metal frame and sash. The bottom of the enclosure shall be of fireproof material unless the opening extends to the cellar bottom. All openings in such enclosures shall be provided with fireproof doors, except that openings in the enclosures

of vent and light shafts shall be provided either with fireproof doors or with windows having metal frames and sash and wired glass where glass is used. [*Section 79-a added by L. 1913, ch. 461.*]

For fireproof partition, floor and window requirements, see § 79-f, subds. 5-7, *post*, and Industrial Code, Rules 501-503, pp. 192-194, and Rules 509-511, pp. 199-203, *post*.

§ 79-b. Requirements for existing buildings.—No factory shall be conducted in any building heretofore erected unless such building shall conform to the following requirements:

1. **Required exits.** Every building over two stories in height shall be provided on each floor with at least two means of exit or escape from fire, remote from each other, one of which on every floor above the ground floor shall lead to or open on an interior stairway, which shall be enclosed as hereinafter provided, or to an exterior enclosed fireproof stairway. The other shall lead to such a stairway; or to a horizontal exit; or to an exterior screened stairway; or to fire-escapes on the outside of the building in buildings of five stories or less in height except that such fire-escapes shall not be accepted as required means of exit in such buildings or particular classes thereof where the industrial board finds that such fire-escapes would not in its opinion furnish adequate and safe means of escape for the occupants in case of fire; or to outside fire-escapes in buildings over five stories in height when, in the opinion of the industrial board the safety of the occupants of the building would not be endangered thereby. No point on any floor of such factory shall be more than one hundred feet or if there is maintained throughout the building an automatic sprinkler system conforming to the requirements of section eighty-three-b of this chapter, and to the rules and regulations of the industrial board, more than one hundred and fifty feet distant from the entrance to one such means of exit. Whenever safe egress may be had from the roof to an adjoining or nearby structure, every stairway serving as a required means of exit shall be extended to the roof. All such stairways shall extend to the first story and lead to the street or to an unobstructed passageway leading to a street or road or to an open area affording safe passage to a street or road. [*Subd. 1 added by L. 1913, ch. 461; am'd by L. 1914, ch. 182; and L. 1915, ch. 719.*]

2. **Stairway enclosures.** All interior stairways serving as required means of exit in buildings more than five stories in height and the landings, platforms and passageways connected therewith shall be enclosed on all sides by partitions of fire-resisting material extending continuously from the basement. Where the stairway extends to the top floor of the building such partitions shall extend to three feet above the roof. All openings in such partitions shall be provided with self-closing doors constructed of fire-resisting material except where such openings are in the exterior wall of the building. All such partitions and the doors provided for the openings therein shall be constructed in such manner as the industrial board may prescribe by its rules and regulations. The industrial board shall have power to adopt rules and regulations requiring the enclosure of stairways serving as required exits in buildings of five stories or less in height or in particular classes of such buildings wherever the board finds that because of the conditions exist-

ing in such buildings such requirement is necessary to secure the safety of the lives of the occupants thereof in case of fire. Whenever in the case of any existing buildings not over six stories in height, the industrial board shall find that the requirements of this and the last preceding subdivision relating to stairway enclosures can be dispensed with or modified without endangering the safety of persons employed in such buildings, the industrial board shall have power to adopt such rules and regulations, as may, in its opinion, meet the conditions existing in such buildings, which rules and regulations may make said requirements inapplicable or modify the same in such manner as it may find to be adapted to securing the safety of persons employed therein. The industrial board shall have power to adopt rules and regulations, permitting, under conditions therein prescribed, as a substitute for the stairway enclosures herein required the use of partitions heretofore constructed in such manner and of such fire-resisting material as have heretofore been approved by the local authorities exercising supervision over the construction and alteration of buildings. In such cases, however, every opening in the enclosing partitions shall be provided with fire doors. [*Subd. 2 added by L. 1913, ch. 461; am'd by L. 1914, ch. 182.*]

For supplementary regulations and requirements, see Industrial Code, Rules 2, 3, pp. 147, 148, Rules 504-507, pp. 194-196, and Rules 512, 513, p. 203, *post*.

3. Doors. Where five or more persons are employed on any floor of a factory building every door on such floor leading to or opening on any means of exit shall open outwardly or be double swinging doors. All exit doors in the first story, including the doors of the vestibule, shall open outwardly. [*Subd. 3 added by L. 1913, ch. 461.*]

4. Fire-escapes. All outside fire-escapes shall be constructed of wrought-iron or steel and shall be so designed, constructed and erected as to safely sustain on all platforms, balconies and stairways a live load of not less than ninety pounds per square foot with a factor of safety of four. Wherever practicable, a continuous run or straight run stairway shall be used. On every floor above the first there shall be balconies or landings embracing one or more easily accessible and unobstructed openings at each floor level, connected with each other and with the ground by means of a stairway constructed as hereinafter provided and well fastened and secured. All openings leading to outside fire-escapes shall have an unobstructed width of at least two feet and an unobstructed height of at least six feet. Such openings shall extend to the floor level or within six inches thereof, shall be not more than seven inches above the floor of the fire-escape balcony, shall have metal frames or frames covered with metal and be provided with doors constructed of fireproof material and with wired glass where glass is used, except in cases where fire-escapes are hereafter erected on buildings constructed prior to October first, nineteen hundred and thirteen, of five stories or under in height, in which cases the provisions of subdivision five as to the use of steps to connect with the fire-escapes and as to the construction of openings leading to fire-escapes shall apply. All windows opening upon the course of the fire-escape shall be fire-proof windows. The balconies shall have an unobstructed width of at least four feet throughout their length and shall have a landing not less than twenty-four inches square at the

head of every stairway. There shall be a passageway between the stairway opening and the side of the building at least eighteen inches wide throughout except where the stairways reach and leave the balconies at the ends or where double run stairways are used. The stairway opening of the balconies shall be of a size sufficient to provide clear headway and shall be guarded on the long side by an iron railing not less than three feet in height. Each balcony shall be surrounded by an iron railing not less than three feet in height, thoroughly and properly braced. The balconies shall be connected by stairways not less than twenty-two inches wide, placed at an incline of not more than forty-five degrees, with steps of not less than eight-inch tread and not over eight-inch rise and provided with a hand-rail not less than three feet in height. The treads of such stairways shall be so constructed as to sustain a live load of four hundred pounds per step with a factor of safety of four. There shall be a similar stairway from the top floor balcony to the roof, except where the fire-escape is erected on the front of the building. A similar stairway shall also be provided from the lowest balcony to a safe landing place beneath, which stairway shall remain down permanently or be arranged to swing up and down automatically by counterbalancing weights. When not erected on the front of the building, safe and unobstructed egress shall be provided from the foot of the fire-escape by means of an open court or courts or a fireproof passageway having an unobstructed width of at least three feet throughout leading to the street, or by means of an open area having communication with the street; such fireproof passageway shall be adequately lighted at all times and the lights shall be so arranged as to ensure their reliable operation when through accident or other cause the regular factory lighting is extinguished. [*Subd. 4 added by L. 1913, ch. 461; am'd by L. 1914, ch. 366.*]

Relative to existing fire escapes, that do not serve as exits, see Industrial Code, Rule 880, p. 184, *post*; relative to fire escape openings, Rules 507, 510, 513, pp. 195, 200, 203, *post*.

5. The provisions of subdivision four shall not apply where at the time this act takes effect there are outside fire-escapes with balconies on each floor of the building connected with stairways placed at an angle of not more than sixty degrees, provided that such existing outside fire-escapes have or shall be provided with the following:

A stairway leading from the top floor balcony to the roof, except where the fire-escapes are erected on the front of the building; a stairway not less than twenty-two inches wide from the lowest balcony to a safe landing place beneath, which stairway remains down permanently or is arranged to swing up and down by counterbalancing weights; a safe and unobstructed exit to the street from the foot of such fire-escapes as provided in subdivision four hereof; steps connecting the sill of every opening leading to the fire-escapes with the floor wherever such sill is more than three feet above the floor level; and all openings leading to the fire-escapes provided with windows having metal frames and sash or frames and sash covered with metal and with wired glass where glass is used, or with doors constructed in accordance with the

requirements of subdivision four; and all windows opening upon the course of the fire-escapes provided with fireproof windows*: [*Subd. 5, added by L. 1913, ch. 461; identically am'd by L. 1914, ch. 182; and L. 1914, ch. 366.*]

Penalty for non-compliance: see Penal Law, § 1275, p. 222, *post*. Liability: see § 202, *post*. In a tenant-factory the owner alone is responsible for observance of this section: § 94, *post*.

§ 79-c. Additional requirements common to buildings heretofore and hereafter erected.—No factory shall be conducted in any building unless such building shall be so constructed, equipped and maintained in all respects as to afford adequate protection against fire to all persons employed therein, nor unless, in addition to the requirements of section seventy-nine-a in the case of a building hereafter erected or of section seventy-nine-b in the case of a building heretofore erected, such building shall conform to the following requirements:

1. Stairways. Stairways shall be provided with proper and substantial hand-rails. Where the stairway is enclosed by fireproof partitions the bottom of the enclosure shall be of fireproof material at least four inches thick unless the fireproof partitions extend to the cellar bottom. All stairways that extend to the top story shall be continued to the roof.

Compare Rule 2 of Industrial Code, p. 147, *post*.

2. Doors and windows. No door, window or other opening on any floor of a factory building shall be obstructed by stationary metal bars, grating or wire mesh. Metal bars, grating or wire mesh provided for any such door, window or other opening shall be so constructed as to be readily movable or removable from both sides in such manner as to afford the free and unobstructed use of such door, window or other opening as a means of egress in case of need and they shall be left unlocked during working hours. Every door opening on a stairway or other means of exit shall so open as not to obstruct the passageway. A clearly painted sign marked "exit" in letters not less than eight inches in height shall be placed over all exits leading to stairways and other means of egress, and in addition a red light shall be placed over all such exits for use in time of darkness.

3. Access to exits. There shall at all times be maintained continuous, safe, unobstructed passageways on each floor of the building, with an unobstructed width of at least three feet throughout their length leading directly to every means of egress, including outside fire-escapes and passenger elevators. All means of egress shall be maintained in an unobstructed condition. No door leading into or out of any factory or any floor thereof shall be locked, bolted or fastened during working hours.

4. Regulation by industrial board. The industrial board shall have power to adopt rules and regulations and establish requirements and standards for construction, equipment and maintenance of factory buildings or of particular classes of factory buildings and the means and adequacy of exit therefrom in order to carry out the purposes of this chapter in addition to the requirements of this section and of sections seventy-nine-a and seventy-nine-b, and not inconsistent therewith. [*Section 79-c added by L. 1913, ch. 461.*]

§ 79-d. Effect of foregoing provisions; inspection of buildings and approval of plans.—1. Effect of foregoing provisions. The requirements of sections

* Colon in original.

seventy-nine-a, seventy-nine-b and seventy-nine-c are not in substitution for the requirements of any general or special law or local ordinance relating to the construction, equipment or maintenance of buildings, but the provisions of such general and special laws and local ordinances shall be observed as well as the provisions of said sections. The provisions of sections seventy-nine-a, seventy-nine-b and seventy-nine-c shall supersede all provisions inconsistent therewith in any special law or local ordinance, and any provision of law or ordinance which gives power to any officer to establish requirements inconsistent with the provisions of such sections or the rules and regulations adopted by the industrial board under the provisions of this article.

2. Inspection of buildings. The officer of any city, village or town having power to inspect buildings therein for the purpose of determining their conformity to the requirements of law or ordinance governing the construction thereof, shall, whenever requested by the commissioner of labor, inspect any factory building therein and certify to the commissioner of labor in detail whether or not such building conforms to the requirements of this chapter and the rules and regulations of the industrial board, and such certificate shall be filed in the office of the commissioner of labor and shall be presumptive evidence of the truth of the matters therein stated.

3. Approval of plans. Before construction or alteration of a building in which it is intended to conduct one or more factories, the plans and specifications for such construction or alteration may be submitted to the commissioner of labor and filed in his office in such form and with such information as may be required by him or by the rules and regulations of the industrial board, and if such plans and specifications comply with the requirements of this chapter and the rules and regulations of the industrial board, he shall issue his certificate approving the same, which certificate shall bear the date when issued. Whenever any certificate shall be issued by the commissioner of labor under this section the particulars of such certificate shall be recorded and indexed in the records of his office. Before issuing any such certificate the commissioner of labor may request the officer of the city, village or town in which such building is located having power to examine and pass upon plans for construction of buildings with reference to their conformity to the requirements of law or ordinance governing the construction thereof, to examine such plans and specifications and to certify to the commissioner of labor whether or not such plans and specifications conform to the requirements of this chapter and the rules and regulations of the industrial board, and such officer shall thereupon make such examination and so certify in detail to the commissioner of labor and such certificate shall be filed in the office of the commissioner of labor and shall be presumptive evidence of the truth of the matters therein stated.

4. Certificate of compliance. After such construction or alteration shall be completed, the commissioner of labor shall, when requested by the owner or person filing such plans, ascertain by inspection or in the manner provided in subdivision two of this section, whether such building conforms to the requirements of this chapter and the rules and regulations of the industrial board; and if he finds that it does conform thereto, shall issue his certificate to that effect, which shall bear the date when issued. [*Section 79-d added by L. 1913, ch. 461.*]

§ 79-e. Limitation of number of occupants.—The number of persons who may occupy any factory building or portion thereof above the ground floor shall be limited to such a number as can safely escape from such building by the means of exit provided in the building.

1. In buildings hereafter erected no more than fourteen persons shall be employed or permitted or suffered to work on any one floor for every full twenty-two inches in width of stairway conforming to the requirements for a required means of exit except as to extension to the roof, provided for such floor. No allowance shall be made for any excess in width of less than twenty-two inches.

2. In buildings heretofore erected no more than fourteen persons shall be employed or permitted or suffered to work on any one floor for every eighteen inches in width of stairway provided for such floor and conforming to the requirements for a required means of exit except as to extension to the roof, and for any excess in width of less than eighteen inches a proportionate increase in the number of occupants shall be allowed. Where the industrial board shall find that the safety of the occupants of any such building will not be endangered thereby, it may allow an increase in the number of occupants of any floor in such building to a number not greater than at the rate of twenty persons for every eighteen inches in width of such stairway provided for such floor, with a proportionate increase in the number of occupants for any excess in width of less than eighteen inches.

3. In any building for every additional sixteen inches over ten feet in height between two floors, one additional person may be employed on the upper of such floors for every eighteen inches in width of stairway leading therefrom to the lower of such floors in buildings heretofore erected, and one for every twenty-two inches in width of such stairway in buildings hereafter erected, provided that such stairways conform to the requirements for required means of exit except as to extension to the roof.

4. In any building, if any stairway has steps of the type known as "winders," a deduction of ten per centum shall be made in counting the capacity of such stairway.

5. In any building where the stairways and stairhalls are enclosed in fireproof partitions or where, at the time this act takes effect, the stairways and stairhalls are enclosed in partitions of brick, concrete, terra-cotta blocks or reinforced concrete constructed in a manner heretofore approved by the superintendent of buildings of the city of New York having jurisdiction if in such city, or elsewhere in the state, in a manner conforming to the rules and regulations to be adopted by the industrial board under the provisions of subdivision two of section seventy-nine-b, all openings in which enclosing partitions are or shall hereafter be provided with fireproof doors; in either of such cases so many additional persons may be employed on any floor as can occupy the enclosed stairhall or halls on that floor, allowing five square feet of unobstructed floor space per person.

6. In any building where a horizontal exit is provided on any floor such number of persons may be employed on such floor as can occupy the smaller of the two spaces on such floor on either side of the fireproof partitions or fire walls, or as can occupy the floor of an adjoining or near-by building which is connected with such floor by openings in the wall or walls between

the buildings or by exterior balconies or bridges, in addition to the occupants of such connected floor in such adjoining or near-by building, allowing five square feet of unobstructed floor space per person, provided that the partitions or walls or balconies through which the horizontal exit is provided to such other portion of the same building or to such adjoining or near-by building shall have doorways of sufficient width to allow eighteen inches in width of opening for each fifty persons or fraction thereof so permitted to be employed on such floor in the case of horizontal exits heretofore constructed and twenty-two inches in the case of horizontal exits hereafter constructed.

7. In any building heretofore erected of fireproof construction, where any floor is subdivided by partitions of brick, terra cotta or concrete not less than four inches thick extending continuously from the fireproofing of the floor to the underside of the fireproofing of the floor above, with all openings protected by fireproof doors not less than forty-four inches nor more than sixty-six inches in width, and in which all the windows on such floor and on the two floors directly underneath are fireproof windows, such number of persons may be employed on such floor as can occupy the smaller of the two spaces on either side of such partitions, allowing five square feet of unobstructed floor space per person, provided there shall be on each side of said partitions at least one stairway conforming to the requirements for a required means of exit; and provided further that such partitions have doorways of sufficient width to allow eighteen inches in width of openings for each fifty persons or fraction thereof so permitted to occupy such floor, and that such doorways shall be kept unlocked and unobstructed during working hours. The provisions of this subdivision shall apply to any fireproof building heretofore erected which may hereafter be made to conform to the requirements of this section.

8. In any building the number of persons permitted to be employed on any one floor under the provisions of subdivisions one, two and three of this section may be increased one hundred per centum where there is constructed, installed and maintained throughout the building an automatic sprinkler system conforming to the requirements of section eighty-three-b of this chapter and to the rules and regulations of the industrial board. [*Subd. 8 am'd by L. 1915, ch. 719.*]

9. Where one floor is occupied by more than one tenant, the commissioner of labor shall have power to prescribe how many of the persons allowed to occupy such floor under the provisions of this section may occupy the space of each tenant. [*Former subd. 9 repealed, subd. 10 am'd and renumbered subd. 9 by L. 1915, ch. 719.*]

10. Posting. In every factory, two stories or over in height, the commissioner of labor shall cause to be posted notices specifying the number of persons that may occupy each floor thereof in accordance with the provisions of this section. Every such notice shall be posted in a conspicuous place in every stairhall and workroom. If any one floor is occupied by more than one tenant, such notices shall be posted in the space occupied by each tenant, and shall state the number of persons that may occupy such space. Every such notice shall bear the date when posted. [*Subd. 11 renumbered subd. 10 by L. 1915, ch. 719. Section 79-e added by L. 1913, ch. 461.*]

§ 79-f. Meaning of terms.—The following terms when used in this article shall have the following meaning:

1. Fireproof construction. A building shall be deemed to be of fireproof construction if it conforms to the following requirements: All walls constructed of brick, stone, concrete or terra cotta; all floors and roofs of brick, terra cotta, or reinforced concrete placed between steel or reinforced concrete beams and girders; all the steel entering into the structural parts encased in at least two inches of fireproof material, excepting the wall columns, which must be encased in at least eight inches of masonry on the outside and four inches on the inside; all stair wells, elevator wells, public hallways and corridors inclosed by fireproof partitions; all doors, fireproof; all stairways, landings, hallways and other floor surfaces of incombustible material; no woodwork or other combustible material used in any partition, furring, ceiling or floor; and all window frames, doors and sash, trim and other interior finish of incombustible material; all windows shall be fireproof windows except that in buildings under seventy feet in height fireproof windows are required only when within thirty feet of another building or opening on a court or space less than thirty feet wide; except that in buildings under one hundred feet in height there may be wooden sleepers and floor finish and wooden trim, and except that in buildings under one hundred and fifty feet in height heretofore constructed there may be wooden sleepers, floor finish and trim and the windows need not be fireproof windows, excepting when such windows are within thirty feet of another building. [*Subd. 1 added by L. 1913, ch. 461.*]

For supplementary regulation, see Industrial Code, Rule 500, p. 191, *post*.

2. Fireproof material is material which is incombustible and is capable of resisting the effect of fire in such manner and to such extent as to insure the safety of the occupants of the building. The industrial board shall determine and in its rules and regulations shall specify what materials are fireproof materials within the meaning hereof. The industrial board shall also determine and in its rules and regulations shall specify what materials, not being fireproof materials within the meaning hereof, are fire resisting materials. Fire resisting material, when required by any of the provisions of this chapter, shall conform to requirements of such rules and regulations. [*Subd. 2 added by L. 1913, ch. 461.*]

3. Incombustible material is material which will not burn or support combustion. [*Subd. 3 added by L. 1913, ch. 461.*]

4. A fire wall is a wall constructed of brick, concrete, terra-cotta blocks or reinforced stone concrete, and having at each floor level one or more openings each protected by fire doors so constructed as to prevent the spread of fire or smoke through the openings. In buildings of nonfireproof construction fire walls shall be at least twelve inches in thickness and shall extend continuously from the cellar floor through the entire building and at least three feet over the roof and be coped; except that walls heretofore erected not less than eight inches in thickness, but otherwise conforming to the requirements of this subdivision shall be considered fire walls within the meaning of this subdivision. No opening in such wall shall exceed sixty-six inches in width or sixty square feet in area, except that where openings not exceeding eight feet in width exist in fire walls heretofore erected, such

walls may be considered fire walls within the meaning of this subdivision, and in the case of fire walls hereafter constructed no two openings in the same wall and at the same floor level shall be nearer than forty feet from the center of one opening to the center of another. Every opening in a fire wall shall be protected by a fire door closing automatically on each side of the wall. At every opening in the fire wall there shall be an incombustible floor finish extending over the floor for the full thickness of the wall so as to completely separate the woodwork of the floors on each side of the fire wall. In fireproof buildings the fire walls shall comply with the foregoing requirements in all respects excepting that they may be of the thickness required by the provisions of this section with respect to fireproof partitions; such fire walls and fireproof partitions shall be continuous, from the cellar floor to the under side of the fireproof roof. [*Subd. 4 added by L. 1913, ch. 461.*]

5. Fireproof partitions shall be built of brick, concrete, reinforced concrete or terra cotta blocks. When built of brick or concrete they shall be not less than eight inches in thickness for the uppermost forty feet, and shall increase four inches in thickness for each additional lower forty feet or part thereof; or, when wholly supported by suitable steel framing at vertical intervals of not over forty feet, they may be eight inches in thickness throughout their entire height. When wholly supported at vertical intervals of not over twenty-five feet, and built of terra cotta blocks, they shall be not less than six inches in thickness and when so supported and built of reinforced stone concrete, they shall be not less than four inches in thickness. The supporting steel framework shall be properly encased on all sides by not less than two inches of fireproof material, securely fastened to the steel work. All openings in such partitions shall be provided with fire doors. [*Subd. 5 added by L. 1913, ch. 461.*]

For supplementary requirements, see Industrial Code, Rule 501, p. 192, and Rule 509, p. 199, *post*.

6. Fire doors. Fire doors shall be metal-covered doors, or doors of such other material as shall be specified in the rules and regulations of the industrial board. They shall be provided with self-closing devices and have incombustible sills. The industrial board shall determine, and in its rules and regulations shall specify, the material and mode and manner of construction and erection of such doors. [*Subd. 6 added by L. 1913, ch. 461.*]

For supplementary requirements, see Industrial Code, Rule 502, p. 192, and Rule 510, p. 200, *post*.

7. Fireproof windows shall be windows constructed of metal frames and sash or frames and sash covered with metal and provided with wired glass and of the automatic, self-closing type. [*Subd. 7, added by L. 1913, ch. 461; am'd by L. 1914, ch. 366.*]

For supplementary requirements, see Industrial Code, Rule 503, p. 193, and Rule 511, p. 202, *post*.

8. Exterior enclosed fireproof stairways shall be stairways completely enclosed from top to bottom by walls of fireproof material not less than eight inches thick extending from the sidewalk, court or yard level to the roof, and with walls extending above the roof so as to form a bulkhead. The stair-

way shall in all other respects conform to the requirements of this article in regard to enclosed stairways. There shall be no opening in any wall separating the exterior enclosed fireproof stairway from the building. Access shall be provided to the stairway from every floor of the building by means of an outside balcony or vestibule of steel, iron or masonry. Every such balcony or vestibule shall have an unobstructed width of at least forty-four inches and shall be provided with a fireproof floor and a railing of incombustible material not less than three feet high. Access to such balconies from the building and to the stairway from the balconies, shall be by means of fire doors. The level of the balcony floor shall be not more than seven inches below the level of the door sill of the building. The doors shall be not less than forty-four inches wide and shall swing outward onto the balcony and inward from the balcony to the stairway, and shall be provided with locks or latches with visible fastenings requiring no key to open them in leaving the building. The landings in such stairway shall be of such width that the doors in opening into the stairway shall not reduce the free passageway of the landings to a width less than the width of the stairs. Every such stairway shall be provided with a proper lighting system which shall furnish adequate light and shall be so arranged as to ensure its reliable operation when, through accident or other cause, the regular factory lighting is extinguished. The balconies giving access to such stairways shall be open on at least one side upon an open space not less than one hundred square feet in area. [Subd. 8 added by L. 1913, ch. 461.]

9. Horizontal exit. A horizontal exit shall be the connection by means of one or more openings not less than forty-four inches wide, protected by fire doors, through a fire wall in any building, or through a wall or walls between two buildings, which doors shall continuously be unlocked and the opening unobstructed whenever any person is employed on either side of the opening. Exterior balconies and bridges not less than forty-four inches in width connecting two buildings and not having a gradient of more than one foot fall in six, may also be counted as horizontal exits when the doors opening out upon said balconies or bridges are fireproof doors and are level with the floors of the building, and when all doors of both buildings opening on such balconies or bridges are continuously kept unlocked and unobstructed whenever any person is employed on either side of the exit, and when such balconies or bridges are built of incombustible material and are capable of sustaining a live load of not less than ninety pounds per square foot with a factor of safety of four; and when such balconies or bridges are enclosed on all sides to a height of not less than six feet and on top and bottom by fireproof material, unless all windows or openings within thirty feet of such balconies in the connected buildings shall be encased in metal frames and sash and shall have wired glass where glass is used. In any case there shall be on each side of the wall or partition containing the horizontal exit and independent of said horizontal exit, at least one stairway conforming to the requirements for a required means of exit. [Subd. 9 added by L. 1913, ch. 461.]

10. Exterior screened stairways used as one of the required means of exit in buildings heretofore erected shall be built of incombustible material. The risers of the stairs shall be not more than seven and three-quarters inches

in height and the treads not less than ten inches wide. On each floor there shall be a balcony connecting with the stairs. Access to the balconies shall be by means of fire doors that shall open outwardly, so as not to obstruct the passageway, or slide freely, and shall extend to the floor level. All windows or other openings opening upon the course of such stairs shall be fireproof. The level of the balcony floor shall not be more than seven inches below the level of the door sill. The stairs shall continue from the roof to the ground level, and there shall be independent means of exit from the bottom of such stairs to the street or to an open court or to a fireproof enclosed passageway leading to the street or to an open area having communication with the street or road. The balconies and stairs shall be enclosed in a screen of incombustible material. [*Subd. 10 added by L. 1913, ch. 461.*]

11. The provisions of subdivisions four to nine inclusive of this section shall apply to all buildings hereafter erected and to all construction hereafter made in buildings heretofore erected. The industrial board shall adopt rules and regulations regulating construction heretofore made in buildings heretofore erected requiring compliance with such of the requirements of the said subdivisions or with such other or different requirements as said board may find to be reasonable and adequate to protect persons employed in such buildings against fire. [*Subd. 11 added by L. 1913, ch. 461.*]

§ 79-g. Enforcement of certain provisions of this article.—The commissioner of labor, except as otherwise provided in this chapter, shall have the power and is hereby charged with the duty of enforcing all of the provisions of this chapter relating to the prevention of and protection against fire, including specifically the provisions of sections seventy-nine-a, seventy-nine-b, seventy-nine-c, seventy-nine-e and seventy-nine-f, together with the rules and regulations of the industrial board adopted under the authority of any such sections. [*Added by L. 1915, ch. 347.*]

The exceptions referred to in this section are made by §§ 83-a, 83-b, 83-c, 91 and 238. Prior to the enactment of L. 1915, chs. 4 and 347, the state fire marshal was charged with the duty of enforcing the sections enumerated by this section outside New York city and the superintendent of buildings and fire commissioner of the city of New York were empowered to enforce them within New York city. The state fire marshal's duty rested upon § 351 of the Insurance Law, added by L. 1911, ch. 451 and amended by L. 1913, ch. 204; the fire commissioner's authority, upon § 774 of the New York city charter, added by L. 1911, ch. 899 and amended by L. 1914, ch. 459. L. 1915, ch. 4, repealed § 351 of the Insurance Law. This section charges the industrial commission with the duty of enforcing the sections that it enumerates both within and without New York city.

§ 81. Protection of employees operating machinery; dust-creating machinery; lighting of factories and workrooms.—1. The owner or person in charge of a factory where machinery is used, shall provide, as may be required by the rules and regulations of the industrial board, belt shifters or other mechanical contrivances for the purpose of throwing on or off belts on pulleys. Whenever practicable, all machinery shall be provided with loose pulleys. Every vat and pan wherever set so that the opening or top thereof is at a lower level than the elbow of the operator or operators at work about the same shall be protected by a cover which shall be maintained over the same while in use in such manner as effectually to prevent such operators

or other persons falling therein or coming in contact with the contents thereof, except that where it is necessary to remove such cover while any such vat or pan is in use, such vat or pan shall be protected by an adequate railing around the same. Every hydro-extractor shall be covered or otherwise properly guarded while in motion. Every saw shall be provided with a proper and effective guard. Every planer shall be protected by a substantial hood or covering. Every hand-planer or jointer shall be provided with a proper and effective guard. All cogs and gearing shall be boxed or cased either with metal or wood. All belting within seven feet of the floors shall be properly guarded. All revolving shafting within seven feet of the floors shall be protected on its exposed surface by being encased in such a manner as to effectively prevent any part of the body, hair or clothing of the operators or other persons from coming in contact with such shafting. All set-screws, keys, bolts and all parts projecting beyond the surface of revolving shafting shall be countersunk or provided with suitable covering, and machinery of every description shall be properly guarded and provided with proper safety appliances or devices. All machines, machinery, apparatus, furniture and fixtures shall be so placed and guarded in relation to one another as to be safe for all persons. Whenever any danger exists which requires any special care as to the character and condition of the clothing of the persons employed thereabouts, or which requires the use of special clothing or guards, the industrial board may make rules and regulations prescribing what shall be used or worn for the purpose of guarding against such danger and regulating the provision, maintenance and use thereof. No person shall remove or make ineffective any safeguard or safety appliance or device around or attached to machinery, vats or pans, unless for the purpose of immediately making repairs thereto or adjustment thereof, and any person who removes or makes ineffective any such safeguard, safety appliance or device for a permitted purpose shall immediately replace the same when such purpose is accomplished. It shall be the duty of the employer and of every person exercising direction or control over the person who removes such safeguard, safety appliance or device, or over any person for whose protection it is designed to see that a safeguard or safety appliance or device that has been removed is promptly and properly replaced. All fencing, safeguards, safety appliances and devices must be constantly maintained in proper condition. When in the opinion of the commissioner of labor a machine or any part thereof is in a dangerous condition or is not properly guarded or is dangerously placed, the use thereof shall be prohibited by the commissioner of labor and a notice to that effect shall be attached thereto. Such notice shall not be removed except by an authorized representative of the department of labor, nor until the machinery is made safe and the required safeguards or safety appliances or devices are provided, and in the meantime such unsafe or dangerous machinery shall not be used. The industrial board may make rules and regulations regulating the installation, position, operation, guarding and use of machines and machinery in operation in factories, the furnishing and use of safety devices and safety appliances for machines and machinery and of guards to be worn upon the person, and other cognate matters, whenever it finds such regulations necessary in order to provide for the prevention of accidents in factories. [Subd. 1 am'd by L. 1918, ch. 286.]

For discussion of replacement of safeguards "promptly" or "immediately" see *Pockrass v. Kaplan*, 163 App. Div. 209.

2. All grinding, polishing or buffing wheels used in the course of the manufacture of articles of the baser metals shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove all matter thrown off such wheels in the course of their use. Such fan shall be kept running constantly while such grinding, polishing or buffing wheels are in operation; except that in case of wet-grinding it is unnecessary to comply with this provision unless required by the rules and regulations of the industrial board. All machinery creating dust or impurities shall be equipped with proper hoods and pipes and such pipes shall be connected to an exhaust fan of sufficient capacity and power to remove such dust or impurities; such fan shall be kept running constantly while such machinery is in use; except where, in case of wood-working machinery, the industrial board shall decide that it is unnecessary for the health and welfare of the operatives. [*Subd. 2 am'd by L. 1913, ch. 286.*]

For regulation supplementary to this subdivision see Industrial Code, Rules 700-723, pp. 212, 219, *post*.

3. All passageways and other portions of a factory, and all moving parts of machinery which are not so guarded as to prevent accidents, where, on or about which persons work or pass or may have to work or pass in emergencies, shall be kept properly and * and sufficiently lighted during working hours. The halls and stairs leading to the workrooms shall be properly and adequately lighted, and a proper and adequate light shall be kept burning by the owner or lessee in the public hallways near the stairs, upon the entrance floor and upon the other floors on every workday in the year, from the time when the building is open for use in the morning until the time it is closed in the evening, except at times when the influx of natural light shall make artificial light unnecessary. Such lights shall be so arranged as to insure their reliable operation when through accident or other cause the regular factory lighting is extinguished. [*Subd. 3 am'd by L. 1913, ch. 286.*]

Compare § 168, *post*.

4. All workrooms shall be properly and adequately lighted during working hours. Artificial illuminants in every workroom shall be installed, arranged and used so that the light furnished will at all times be sufficient and adequate for the work carried on therein, and so as to prevent unnecessary strain on the vision or glare in the eyes of the workers. The industrial board may make rules and regulations to provide for adequate and sufficient natural and artificial lighting facilities in all factories. [*Subd. 4 added by L. 1913, ch. 286.*] [*Section 81 am'd by L. 1909, ch. 299; and L. 1910, ch. 106; am'd and subdivided by L. 1913, ch. 286.*]

Non-compliance with the section renders the master liable in case of injury to employees: § 202, *post*.

In a tenant-factory the owner alone is responsible for lighting of halls and stairs: § 94, *post*.

Where it is practicable to guard a machine and danger from its remaining unguarded should be reasonably anticipated the provisions of the section are mandatory and the burden of proving that it is impracticable to guard a machine is upon the employer: *Scott v. International Paper Co.*, 204 N. Y. 49 (1912). The burden of proof as to assumption of risk in case of failure to comply with the statute is upon the employer: *Fitzwater v. Warren*, 206 N. Y. 935.

In a case brought under this section, § 202-a, *post*, relative to contributory negligence, was held to apply: *Hubbell v. Pioneer Paper Co.*, 160 App. Div. 356.

* So in original.

§ 83-a. Fire alarm signal systems and fire drills.—1. Every factory building over two stories in height in which more than twenty-five persons are employed above the ground floor shall be equipped with a fire alarm signal system with a sufficient number of signals clearly audible to all occupants thereof. The industrial board may make rules and regulations prescribing the number and location of such signals. Such system shall be installed by the owner or lessee of the building and shall permit the sounding of all the alarms within the building whenever the alarm is sounded in any portion thereof. Such system shall be maintained in good working order. No person shall tamper with, or render ineffective any portion of said system except to repair the same. It shall be the duty of whoever discovers a fire to cause an alarm to be sounded immediately. [*Subd. 1 added by L. 1913, ch. 203; and am'd by L. 1915, ch. 347*]

2. In every factory building over two stories in height in which more than twenty-five persons are employed above the ground floor, a fire drill which will conduct all the occupants of such building to a place of safety and in which all the occupants of such building shall participate simultaneously shall be conducted at least once a month.

In the city of New York the fire commissioner of such city and elsewhere the industrial board shall make rules, regulations and special orders necessary or suitable to each situation and in the case of buildings containing more than one tenant, necessary or suitable to the adequate cooperation of all the tenants of such building in a fire drill of all the occupants thereof. Such rules, regulations and orders may prescribe upon whom shall rest the duty of carrying out the same. Such special orders may require posting of the same or an abstract thereof. [*Subd. 2 am'd by L. 1913, ch. 203; and L. 1915, ch. 347*]

3. In the city of New York the fire commissioner of such city, and elsewhere the commissioner of labor is charged with the duty of enforcing this section. [*Subd. 3 am'd by L. 1915, ch. 347. Section 83-a added by L. 1912, ch. 330; am'd and subdivided by L. 1913, ch. 203.*]

L. 1915, ch. 347. § 6, continues pending proceedings instituted under § 83-a by the State Fire Marshal and continues the rules, regulations and special orders made by the State Fire Marshal under § 83-a until the adoption by the industrial board of new rules, regulations and special orders.

For supplementary regulations, see Industrial Code, Rule 375, pp. 176-184, *post*.

The relative responsibilities of landlord and tenant are defined in an Opinion of the Attorney-General, February 16, 1914. Persons refusing to obey rules and regulations are subject to prosecution under § 1275 of the Penal Law, p. 222, *post*. (Opinions of the Attorney-General, 1914, p. 42).

§ 83-b. Automatic sprinklers.—In every factory building over seven stories or over ninety feet in height in which wooden flooring or wooden trim is used and more than two hundred people are regularly employed above the seventh floor or more than ninety feet above the ground level of such building, the owner of the building shall install an automatic sprinkler system approved as to form and manner in the city of New York by the fire commissioner of such city, and elsewhere, by the commissioner of labor. The owner of such a factory building hereafter constructed or of which the construction shall be hereafter completed, shall install such automatic sprinkler system, approved as above provided, before opening a factory therein or within such time thereafter, not exceeding one year, as the fire commissioner of the city of New York, if the building be in such city, and elsewhere the commissioner of labor shall permit for good cause shown. Where any such installation shall not have been

made pursuant to the provisions of this section before this amendment takes effect, within the times limited by such provisions, or shall not have been made in any such factory building or buildings now used for a factory constructed or opened since April fifteenth, nineteen hundred and fourteen, such installation shall be made within one year after this section as hereby amended takes effect. Nothing herein contained shall be deemed to remit any penalty heretofore accrued for failure to install any such system within the times heretofore limited.

A failure to comply with this section shall be a misdemeanor as provided by section twelve hundred and seventy-five of the penal law and the provisions hereof shall also be enforced in the city of New York by the fire commissioner of such city in the manner provided by title three of chapter fifteen of the Greater New York charter, and elsewhere by the commissioner of labor. [*Added by L. 1912, ch. 332; and am'd by L. 1915, ch. 347.*]

L. 1915, ch. 347, § 6, ratifies approvals of automatic sprinkler systems and continues pending proceedings of the State Fire Marshal under § 83-b.

Enactment of this section did not repeal local requirements relative to automatic sprinklers in buildings other than those described in this section: *People v. Kaye*, 212 N. Y. 407.

§ 83-c. Fire proof receptacles; gas jets; smoking.—1. Every factory shall be provided with properly covered fire proof receptacles, the number, style and location of which shall be approved in the city of New York by the fire commissioner, and elsewhere, by the commissioner of labor. There shall be deposited in such receptacles all inflammable waste materials, cuttings and rubbish. No waste materials, cuttings and rubbish shall be permitted to accumulate on the floors of any factory but shall be removed therefrom not less than twice each day. All such waste materials, cuttings and rubbish shall be entirely removed from a factory building at least once in each day, except that baled waste material may be stored in fireproof enclosures, provided that all such baled waste material shall be removed from such building at least once in each month. [*Subd. 1 added by L. 1912, ch. 329; am'd by L. 1913, ch. 194.*]

2. All gas jets or lights in factories shall be properly enclosed by globes, wire cages or otherwise properly protected in a manner approved in the city of New York by the fire commissioner of such city, and elsewhere, by the commissioner of labor. [*Subd. 2 added by L. 1912, ch. 329.*]

3. No person shall smoke in any factory but the industrial board in its rules may permit smoking in protected portions of a factory or in special classes of occupancies where in its opinion the safety of the employees would not be endangered thereby. A notice of such prohibition stating the penalty for violation thereof shall be posted in every entrance hall and every elevator car, and in every stairhall and room on every floor of such factory in English and also in such other language or languages as the fire commissioner of the city of New York in such city, and elsewhere, the commissioner of labor, shall direct. The fire commissioner of the city of New York in such city, and elsewhere, the commissioner of labor shall enforce the provisions of this subdivision. [*Subd. 3 added by L. 1912, ch. 329; am'd by L. 1913, ch. 194; and L. 1915, ch. 347.*]

L. 1915, ch. 347, § 6, continues pending proceedings of the State Fire Marshal under § 83-c.

The Industrial Code, rules 650-664, pp. 210-212, *post*, prescribes for mill and malt-house elevators special prohibitions and precautions relative to smoking, boiler rooms and dust accumulation.

§ 84. Cleanliness of rooms.—Every room in a factory and the floors, walls, ceilings, windows and every other part thereof and all fixtures therein shall at all times be kept in a clean and sanitary condition. The walls and ceilings of each room in a factory shall be lime washed or painted, except when properly tiled or covered with slate or marble with a finished surface. Such lime wash or paint shall be renewed whenever necessary as may be required by the commissioner of labor. Floors shall, at all times, be maintained in a safe condition. No person shall spit or expectorate upon the walls, floors or stairs of any building used in whole or in part for factory purposes. Sanitary cuspidors shall be provided, in every workroom in a factory in sufficient numbers. Such cuspidors shall be thoroughly cleaned daily. Suitable receptacles shall be provided and used for the storage of waste and refuse; such receptacles shall be maintained in a sanitary condition. [*As am'd by L. 1910, ch. 114 and L. 1913, ch. 82.*]

In tenant-factories responsibility for cleanliness of halls, etc., is placed upon the owner by § 94, *post*.

Compare Industrial Code, rules 169–177, governing factory buildings and workrooms, pp. 158, 159, *post*; compare also special requirements for laundries in § 92; for bakeries in §§ 112–114; and for mercantile establishments in §§ 168, 168-a, *post*. For bakeries compare also Industrial Code, Rules 300–347, pp. 170–175, *post*.

§ 84-a. Cleanliness of factory buildings.—Every part of a factory building and of the premises thereof and the yards, courts, passages, areas or alleys connected with or belonging to the same, shall be kept clean, and shall be kept free from any accumulation of dirt, filth, rubbish or garbage in or on the same. The roof, passages, stairs, halls, basements, cellars, privies, water-closets, cesspools, drains and all other parts of such building and the premises thereof shall at all times be kept in a clean, sanitary and safe condition. The entire building and premises shall be well drained and the plumbing thereof at all times kept in proper repair and in a clean and sanitary condition. [*Added by L. 1913, ch. 198.*]

Compare Industrial Code, rules 181–196, governing factory plumbing and drainage, pp. 161–164, *post*.

§ 85. Size of rooms.—No more employees shall be required or permitted to work in a room in a factory between the hours of six o'clock in the morning and six o'clock in the evening than will allow to each of such employees not less than two hundred and fifty cubic feet of air space; and, unless by a written permit of the commissioner of labor, not less than four hundred cubic feet for each employee, so employed between the hours of six o'clock in the evening and six o'clock in the morning, provided such room is lighted by electricity at all times during such hours, while persons are employed therein.

Compare requirement as to height of ceilings in bakeries, §§ 112, 114 and 116, *post*.

§ 86. Ventilation.—1. The person operating every factory shall provide, in each workroom thereof, proper and sufficient means of ventilation by natural or mechanical means, or both, as may be necessary, and shall maintain proper and sufficient ventilation and proper degrees of temperature and humidity in every workroom thereof at all times during working hours. [*Subd. 1, am'd by L. 1913, ch. 196; L. 1914, ch. 366.*]

2. If dust, gases, fumes, vapors, fibers or other impurities are generated or released in the course of the business carried on in any workroom of a factory, in quantities tending to injure the health of the operatives, the person operating the factory, whether as owner or lessee of the whole or of a part of the building in which the same is situated, or otherwise, shall provide suction devices that shall remove said impurities from the workroom, at their point of origin where practicable, by means of proper hoods connected to conduits and exhaust fans of sufficient capacity to remove such impurities, and such fans shall be kept running constantly while such impurities are being generated or released. If, owing to the nature of the manufacturing process carried on in a factory workroom, excessive heat be created therein the person or persons operating the factory as aforesaid shall provide, maintain, use and operate such special means or appliances as may be required to reduce such excessive heat. [*Subd. 2 added by L. 1913, ch. 196.*]

For regulation supplementary to this subdivision see Industrial Code, rules 718-723, pp. 216-219, *post*.

3. The industrial board shall have power to make rules and regulations for and fix standards of ventilation, temperature and humidity in factories and may prescribe the special means, if any, required for removing impurities or for reducing excessive heat, and the machinery, apparatus or appliances to be used for any of said purposes, and the construction, equipment, maintenance and operation thereof, in order to effectuate the purposes of this section. [*Subd. 3 added by L. 1913, ch. 196.*]

4. If any requirement of this section or any rule or regulation of the industrial board made under the provisions thereof shall not be complied with, the commissioner of labor shall issue or cause to be issued an order directing compliance therewith by the person whose duty it is to comply therewith within thirty days after the service of such order. Such person shall, in case of failure to comply with the requirements of such order, forfeit to the people of the state fifteen dollars for each day during which such failure shall continue after the expiration of such thirty days, to be recovered by the commissioner of labor. The liability to such penalty shall be in addition to the liability of such person to prosecution for a misdemeanor as provided by section twelve hundred and seventy-five of the penal law. [*Subd. 4, added by L. 1913, ch. 196.*]

5. When the commissioner of labor shall issue, or cause to be issued, an order specified in subdivision four hereof, he may in such order require plans and specifications to be filed for any machinery or apparatus to be provided or altered, pursuant to the requirements of such order. In such case, before providing, or making any change or alteration in any machinery or apparatus for any of the purposes specified in this section, the person upon whom such order is served shall file with the commissioner of labor plans and specifications therefor, and shall obtain the approval of such plans and specifications by the commissioner of labor before providing or making any change or alteration in any such machinery or apparatus. [*Subd. 5, added by L. 1913, ch. 196.*]

§ 94, *post*, makes the owner as well as occupant in a tenant-factory responsible for observance of this section and the owner of a factory building is liable for a violation of this section even though by the terms of a lease a tenant agrees to comply with the law: *People ex rel. Williams v. Eno*, 134 App. Div. 527.

Compare special requirements for bakeries, §§ 112, 113, 114, 116 and 117, *post*.

§ 87. Accidents to be reported.—The person in charge of any factory shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the time of the accident, death or injury, a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*As am'd by L. 1910, ch. 155.*]

Compare Industrial Code, rules 178–180, requiring “first-aid” kits in factories, pp. 160, 161, *post*; also 20-a, *ante*, building accidents, § 97, subd. 7, *post*, accidents in foundries, and § 126, *post*, accidents in mines and quarries; also §§ 47, 66 and 94 of the Public Service Commissions Law (Ch. 48 of the Consolidated Laws) and §§ 96 and 111 of the Workmen's Compensation Law, *post*.

§ 88. Drinking water, washrooms and dressing rooms.—1. In every factory there shall be provided at all times for the use of employees, a sufficient supply of clean and pure drinking water. Such water shall be supplied through proper pipe connections with water mains through which is conveyed the water used for domestic purposes, or, from a spring or well or body of pure water; if such drinking water be placed in receptacles in the factory, such receptacles shall be properly covered to prevent contamination and shall be thoroughly cleaned at frequent intervals.

2. In every factory there shall be provided and maintained for the use of employees suitable and convenient washrooms, separate for each sex, adequately equipped with washing facilities consisting of sinks or stationary basins provided with running water or with tanks holding an adequate supply of clean water. Every washroom shall be provided with means for artificial illumination and with adequate means of ventilation. All washrooms and washing facilities shall be constructed, lighted, heated, ventilated, arranged and maintained according to rules and regulations adopted with reference thereto by the industrial board. In all factories where lead, arsenic or other poisonous substances or injurious or noxious fumes, dust or gases are present as an incident or result of the business or processes conducted by such factory there shall be provided washing facilities which shall include hot water and soap and individual towels.

3. Where females are employed the person operating the factory shall provide dressing or emergency rooms for their use; each such room shall have at least one window opening to the outer air and shall be enclosed by means of solid partitions or walls. In every factory in which more than ten women are employed there shall be provided one or more separate dressing rooms in such numbers as required by the rules and regulations of the industrial board and located in such place or places as required by such rules and regulations, having an adequate floor space in proportion to the number of employees, to be fixed by the rules and regulations of the industrial board, but the floor

space of every such dressing room shall in no event be less than sixty square feet; each dressing room shall be separated from any water closet compartment by adequate partitions and shall be provided with adequate means for artificial illumination; each dressing room shall be provided with suitable means for hanging clothes and with a suitable number of seats. All dressing rooms shall be enclosed by means of solid partitions or walls, and shall be constructed, heated, ventilated, lighted and maintained in accordance with such rules and regulations as may be adopted by the industrial board with reference thereto. [*Subd. 3, am'd by L. 1914, ch. 366.*] [*Section 88 am'd by L. 1910, ch. 229; and L. 1912, ch. 336; am'd and subdivided by L. 1913, ch. 340.*]

Compare Industrial Code, rules 148-165, governing factory drinking water, wash-rooms and dressing rooms, pp 155-158, *post*; compare also special requirements for bakeries, §§ 112, 113; and for mercantile establishments, §§ 168-168f.

With this section note also the following regulations from chapter 7 of the Sanitary Code established by the Public Health Council:

Regulation 2. Common towel forbidden. No person, firm or corporation owning, in charge of, or in control of any lavatory or wash room in any hotel, lodging-house, restaurant, factory, store, office building, railway or trolley station, or public conveyance by land or water shall provide in or about such lavatory or wash room any towel for common use. The term "common use" in this regulation shall be construed to mean for use by more than one person without cleansing.

This regulation shall take effect throughout the state of New York, except in the city of New York, on the first day of March, 1915.

Regulation 3. Common drinking cups and drinking and eating utensils forbidden. The use of common drinking cups, and of common drinking or eating utensils in any public place or public institution, or in any hotel, saloon, lodging-house, theatre, factory, school or public hall; or in any railway or trolley car or ferry boat; or in any railway or trolley station or ferry house or the furnishing of any such common drinking cup or drinking or eating utensil for common use in any such place is prohibited.

The term "common use" in this regulation shall be construed to mean for use by more than one person without adequate cleansing.

This regulation shall take effect throughout the state of New York, except in the city of New York, on the first day of March, 1915.

In a tenant-factory the owner must provide water-closets, and the necessary plumbing and water to enable occupants to comply with all the provisions of this section: § 94, *post*.

§ 88-a. Water closets.—1. In every factory there shall be provided suitable and convenient water closets separate for each sex, in such number and located in such place or places as required by the rules and regulations of the industrial board. All water closets shall be maintained inside the factory except where, in the opinion of the commissioner of labor it is impracticable to do so. [*Subd. 1 added by L. 1913, ch. 340.*]

2. There shall be separate water closet compartments for females, to be used by them exclusively, and notice to that effect shall be painted on the outside of such compartments. The entrance to every water closet used by females shall be effectively screened by a partition or vestibule. Where water closets for males and females are in adjoining compartments, there shall be solid plastered or metal covered partitions between the compartments extending from the floor to the ceiling. Whenever any water closet compartments open directly into the workroom exposing the interior, they shall be screened from view by a partition or a vestibule. The use of curtains for screening purposes is prohibited. [*Subd. 2 added by L. 1913, ch. 340.*]

3. The use of any form of trough water closet, latrine or school sink within any factory is prohibited. All such trough water closets, latrines or school sinks shall, before the first of October, nineteen hundred and fourteen, be completely removed and the place where they were located properly disinfected under the direction of the department of labor. Such appliances shall be replaced by proper individual water closets, placed in water closet compartments, all of which shall be constructed and installed in accordance with rules and regulations to be adopted by the industrial board. [*Subd. 3 added by L. 1913, ch. 340.*]

4. Every existing water closet and urinal inside any factory shall have a basin of enameled iron or earthenware, and shall be flushed from a separate water-supplied cistern or through a flushometer valve connected in such manner as to keep the water supply of the factory free from contamination. All woodwork enclosing water closet fixtures shall be removed from the front of the closet and the space underneath the seat shall be left open. The floor or other surface beneath and around the closet shall be maintained in good order and repair and all the woodwork shall be kept well painted with a light color paint. All existing water closet compartments shall have windows or suitable ducts leading to the outer air and shall be otherwise ventilated in accordance with rules and regulations adopted for that purpose by the industrial board. Such compartments shall be provided with means for artificial illumination and the enclosure of each compartment shall be kept free from all obscene writing or marking. [*Subd. 4 added by L. 1913, ch. 340; am'd by L. 1914, ch. 366.*]

5. All water closets, urinals and water closet compartments hereafter installed in a factory, including those provided to replace existing fixtures, shall be properly constructed, installed, ventilated, lighted and maintained in accordance with such rules and regulations as may be adopted by the industrial board. [*Subd. 5, added by L. 1913, ch. 340.*]

6. All water closet compartments, and the floors, walls, ceilings and surface thereof, and all fixtures therein, and all water closets and urinals shall at all times be kept and maintained in a clean and sanitary condition. Where the water supply to water closets or urinals is liable to freeze, the water closet compartment shall be properly heated so as to prevent freezing, or the supply and flush pipes, cisterns and traps and valves shall be effectively covered with wool felt or hair felt, or other adequate covering. [*Subd. 6 added by L. 1913, ch. 340.*]

7. All water closets shall be constructed, lighted, ventilated, arranged and maintained according to rules and regulations adopted with reference thereto by the industrial board. [*Subd. 7 added by L. 1913, ch. 340.*]

Compare Industrial Code, rules 100-147, 166-168, governing factory toilet rooms, water-closets, privies and urinals, pp. 148-155, 158, *post*; compare also water-closet requirements for foundries, § 97; for bakeries, §§ 112, 113; for mercantile establishments, § 168-e.

§ 89. Time allowed for meals.— In each factory at least sixty minutes shall be allowed for the noon-day meal, unless the commissioner of labor shall permit a shorter time. Such permit must be in writing and conspicuously posted in the main entrance of the factory, and may be revoked at any time.

Where employees are required or permitted to work overtime for more than one hour after six o'clock in the evening, they shall be allowed at least twenty minutes to obtain a lunch, before beginning to work overtime.

Compare requirements for mercantile establishments, § 161.

§ 89-a. Prohibition against eating meals in certain workrooms.—No employee shall take or be permitted to take any food into a room or apartment in a factory, mercantile establishment, mill or workshop, commercial institution or other establishment or working place where lead, arsenic or other poisonous substances or injurious or noxious fumes, dust or gases exist in harmful conditions or are present in harmful quantities as an incident or result of the business conducted by such factory, commercial establishment, mill or workshop, commercial institution or other establishment or working place; and notice to the foregoing effect shall be posted in each such room, or apartment. No employee, unless his presence is necessary for the proper conduct of the business, shall remain in any such room, apartment or enclosure during the time allowed for meals, and suitable provision shall be made and maintained by the employer for enabling employees to take their meals elsewhere in such establishment. [Added by L. 1912, ch. 336.]

Compare § 169, *post*.

§ 90. Inspection of factory buildings.—The commissioner of labor, or other competent person designated by him, upon request, shall examine any factory outside of the cities of New York and Brooklyn, to determine whether it is in a safe condition. If it appears to him to be unsafe, he shall immediately notify the owner, agent or lessee thereof, specifying the defects, and require such repairs and improvements to be made as he may deem necessary. If the owner, agent or lessee shall fail to comply with such requirement, he shall forfeit to the people of the state the sum of fifty dollars, to be recovered by the commissioner of labor in his name of office.

In a tenant-factory the owner alone is responsible for observance of this section : § 94, *post*.

§ 91. Boiler inspection.—The commissioner of labor shall cause to be inspected all boilers used for generating steam or heat for factory purposes which carry a steam pressure of ten pounds or more to the square inch, except where a certificate is filed with such commissioner, or shall have been heretofore filed with the state fire marshal under the provisions of former section three hundred and fifty-seven of the insurance law, by a duly authorized insurance company, in conformity with the rules or regulations of the officer with whom such certificate shall have been filed, and certifying that upon such inspection such boilers have been found to be in a safe condition. Every such insurance company shall report to the commissioner all boilers insured by them coming within the provisions of this section including those rejected, together with the reason therefor. A fee of five dollars shall be charged the owner or lessee of each boiler inspected by the inspector of the department of labor, but not more than the sum of ten dollars shall be collected for the inspection of any one boiler for any year. Such fee shall be payable within thirty days from the date of such inspection. If a certificate of inspection, heretofore filed in the office

of the state fire marshal, or hereafter filed in the office of the commissioner of labor shows a boiler to be in need of repairs or in an unsafe or dangerous condition, the commissioner of labor shall order such repairs to be made to such boiler as in his judgment may be necessary and he shall order the use of such boiler discontinued until such repairs are made or such dangerous and unsafe conditions remedied. Such order shall be served upon the owner or lessee of the boiler, personally or by mail, and any owner or lessee failing to comply with such order within a time to be specified therein, which shall be not less than ten days from the service of the order if served personally and not less than fifteen days from the mailing thereof if served by mail, shall be liable to a penalty of fifty dollars for each day's neglect thereafter. Every owner or lessee of any such boiler who shall use or allow a boiler to be used by any one in his employ after receiving notice that such boiler is in an unsafe or dangerous condition shall be subject to a penalty of not to exceed five dollars for each day on which such boiler is used after the receipt of such notice. Owners and lessees of boilers shall attach to such boilers the numbers assigned by the commissioner of labor, under a penalty of five dollars for each day's failure so to do after such numbers have been assigned.

The provisions of this section shall not apply to cities in which boilers are regularly inspected by competent inspectors acting under the authority of local laws or ordinances. [*Added by L. 1915, ch. 347.*]

Former § 91, relative to inspection of factory boilers, was repealed by L. 1913, ch. 523. Under that section relative responsibilities of tenant-factory owners and occupants were defined by § 94, *post*. See § 342 of New York city charter, p. 329, *post*, for inspection of boilers in New York city; §§ 5 and 6 of the Navigation Law, for inspection of steamboat boilers; § 72 of the Railroad Law, p. 301 *post*, for inspection of locomotive boilers.

§ 92. **Laundries.**—A shop, room or building where one or more persons are employed in doing public laundry work by way of trade or for purposes of gain is a factory within the meaning of this chapter, and shall be subject to the visitation and inspection of the commissioner of labor and the provisions of this chapter in the same manner as any other factory. No such public laundry work shall be done in a room used for a sleeping or living room. All such laundries shall be kept in a clean condition and free from vermin and all impurities of an infectious or contagious nature. This section shall not apply to any female engaged in doing custom laundry work at her home for a regular family trade.

A hotel laundry is not a public laundry: *Opinions of Attorney-General, March 5 and September 28, 1906.*

§ 93. **Prohibited employment of women and children.**—1. No child under the age of sixteen years shall be employed or permitted to work in operating or assisting in operating any of the following machines: Circular or band saws, woodshapers, woodjointers, planers, sandpaper or wood polishing machinery; picker machines or machines used in picking wool, cotton, hair or any upholstery material; paper lace machines; burnishing machines in any tannery or leather manufactory; job or cylinder printing presses having motive power other than foot; wood-turning or boring machinery; drill presses; metal or paper cutting machines; corner staying machines in paper box factories; stamping machines used in sheet metal and tinware manufac-

turing or in washer and nut factories; machines used in making corrugating rolls; steam boilers; dough brakes or cracker machinery of any description; wire or iron straightening machinery; rolling mill machinery; power punches or shears; washing, grinding or mixing machinery; calendar rolls in rubber manufacturing; or laundering machinery; or in operating or assisting in operating any other machines or machinery which may be found by the industrial board to be dangerous and specified as such from time to time in rules and regulations adopted by such board. [*Subd. 1 am'd by L. 1909, ch. 299; L. 1910, ch. 107; L. 1913, ch. 464.*]

2. No child under the age of sixteen years shall be employed or permitted to work at adjusting or assisting in adjusting any belt to any machinery, oiling or assisting in oiling, wiping or cleaning machinery; or in any capacity in preparing any composition in which dangerous or poisonous acids are used; or in the manufacture or packing of paints, dry colors, or red or white lead; or dipping or dyeing matches; or in the manufacture, packing or storing of powder, dynamite, nitroglycerine, compounds, fuses, or other explosives; or in or about any distillery, brewery, or any other establishment where malt or alcoholic liquors are manufactured, packed, wrapped, or bottled; and no female under the age of sixteen shall be employed or permitted to work in any capacity where such employment compels her to remain standing constantly. No child under the age of sixteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator either for freight or passengers. No person under the age of eighteen years shall be employed or permitted to have the care, custody or management of or to operate an elevator either for freight or passengers running at a speed of over two hundred feet a minute. No male person under eighteen years or woman under twenty-one years of age shall be permitted or directed to clean machinery while in motion. No male child under the age of eighteen years, nor any female, shall be employed in any factory in this state in operating or using any emery, tripoli, rouge, corundum, stone, carborundum or any abrasive, or emery polishing or buffing wheel, where articles of the baser metals or of iridium are manufactured. [*Subd. 2 am'd by L. 1909, ch. 299; L. 1913, ch. 464.*]

3. In addition to the cases provided for in the foregoing subdivisions, the industrial board, when as a result of its investigations it finds that any particular trade, process of manufacture, or occupation, or particular method of carrying on any trade, process of manufacture, or occupation, is dangerous or injurious to the health of minors under eighteen years of age employed therein, shall have power to adopt rules and regulations prohibiting or regulating the employment of such minors therein. [*Subd. 3 added by L. 1913 ch. 464.*]

4. No female shall be employed or permitted to work in any brass, iron or steel foundry, at or in connection with the making of cores where the oven in which the cores are baked is located and is in operation in the same room or space in which the cores are made. The erection of a partition separating the oven from the space where the cores are made shall not be sufficient unless the said partition extends from the floor to the ceiling, and the partition is so constructed and arranged, and any openings therein so protected that the gases and fumes from the core oven will not enter the room or space

in which the women are employed. The industrial board shall have power to adopt rules and regulations regulating the construction, equipment, maintenance and operation of core rooms and the size and weight of cores that may be handled by women, so as to protect the health and safety of women employed in core rooms. [*Subd. 4 added by L. 1913, ch. 464.*]

Compare § 131, *post*, relative to employment of children or women in mines or quarries.

Children may not assume the obvious risks of operating dangerous machinery contrary to this section, violation of which is *prima facie* evidence of negligence. *Gallenkamp v. Garvin Machine Co.*, 179 N. Y. 588, reversing 91 App. Div. 141, on dissenting opinion below; and *Rahn v. Standard Optical Co.*, 110 App. Div. 501. Compare also § 202, *post*.

§ 93-a. Employment of females after childbirth prohibited.—It shall be unlawful for the owner, proprietor, manager, foreman or other person in authority of any factory, mercantile establishment, mill or workshop to knowingly employ a female or permit a female to be employed therein within four weeks after she has given birth to a child. [*Added by L. 1912, ch. 331.*]

§ 93-b. Period of rest at night for women.—In order to protect the health and morals of females employed in factories by providing an adequate period of rest at night no woman shall be employed or permitted to work in any factory in this state before six o'clock in the morning or after ten o'clock in the evening of any day. [*Added by L. 1913, ch. 83.*]

The section is constitutional: *People v. Charles Schweinler Press*, § 163 App. Div. 620; 214 N. Y. 895; but compare note to § 77, *ante*.

§ 94. Tenant-factories.—A tenant-factory within the meaning of the term as used in this chapter is a building, separate parts of which are occupied and used by different persons, companies or corporations, and one or more of which parts is so used as to constitute in law a factory. The owner, whether or not he is also one of the occupants, instead of the respective lessees or tenants, shall be responsible for the observance and punishable for the nonobservance of the following provisions of this article, anything in any lease to the contrary notwithstanding, namely, the provisions of sections seventy-nine, seventy-nine-a, seventy-nine-b, seventy-nine-c, eighty-three-a, eighty-three-b, eighty-eight, except subdivision three, eighty-eight-a, except subdivision six, ninety, and the provisions of section eighty-one with respect to the lighting of halls and stairways; except that the lessees or tenants also shall be responsible for the observance and punishable for the nonobservance of the provisions of sections seventy-nine, seventy-nine-a, seventy-nine-b, seventy-nine-c, within their respective holdings. The owner of every tenant-factory shall provide each separate factory therein with water-closets in accordance with the provisions of section eighty-eight-a, and with proper and sufficient water and plumbing pipes and a proper and sufficient supply of water to enable the tenant or lessee thereof to comply with all the provisions of said section. But as an alternative to providing water-closets within each factory as aforesaid, the owner may provide in the public hallways or other parts of the premises used in common, where they will be at all times readily and conveniently accessible to all persons employed on the premises not provided for in accordance with section eighty-eight-a, separate

water-closets for each sex, of sufficient numbers to accommodate all such persons. Such owner shall keep all water-closets located as last specified, at all times provided with proper fastenings, and properly screened, lighted, ventilated, clean, sanitary and free from all obscene writing or marking. Outdoor water-closets shall only be permitted where the commissioner of labor shall decide that they are necessary or preferable, and they shall then be provided in all respects in accordance with his directions. The owner of every tenant-factory shall keep the entire building well drained and the plumbing thereof in a clean and sanitary condition; and shall keep the cellar, basement, yards, areas, vacant rooms and spaces, and all parts and places used in common in a clean, sanitary and safe condition, and shall keep such parts thereof as may reasonably be required by the commissioner of labor properly lighted at all hours or times when said building is in use for factory purposes. The term "owner" as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or joint lessees of the whole thereof, or his, her or their agent in charge of the property. The lessee or tenant of any part of a tenant-factory shall permit the owner, his agents and servants, to enter and remain upon the demised premises whenever and so long as may be necessary to comply with the provisions of law, the responsibility for which is by this section placed upon the owner; and his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings to recover possession of real property, as provided in the code of civil procedure. And whenever by the terms of a lease any lessee or tenant shall have agreed to comply with or carry out any of such provisions, his failure or refusal so to do shall be a cause for dispossessing said tenant by summary proceedings as aforesaid. Except as in this article otherwise provided the person or persons, company or corporation conducting or operating a factory whether as owner or lessee of the whole or of a part of the building in which the same is situated or otherwise, shall be responsible for the observance and punishable for the nonobservance of the provisions of this article, anything in any lease or agreement to the contrary notwithstanding. [As am'd by L. 1915, ch. 653.]

Compare notes to §§ 79, 86, *ante*; compare also Industrial Code, rule 104, governing water-closets of tenant-factories, p. 149, *post*.

Owner and tenant are joint tortfeasors as to injury of employee of tenant-factory by appliances furnished by owner and used in common by both: *Larkin Co. v. Terminal Warehouse Co.*, 161 App. Div. 777. Owner or lessee of tenant-factory is liable under the section for the safety of employees in a sanitary, and not in a mechanical sense: *Stowell v. Owen & Co.*, 160 App. Div. 469.

§ 95. Unclean factories.—If the commissioner of labor finds evidence of contagious disease in any factory he shall affix to any articles therein exposed to such contagion a label containing the word "unclean" and shall notify the local board of health, who may disinfect such articles and thereupon remove such label. If the commissioner of labor finds that any workroom or factory is foul, unclean, or unsanitary, he may, after first making and filing in the public records of his office a written order stating the reasons therefor, affix to any articles therein found a label containing the word "unclean." No one but the commissioner of labor shall remove any label so

affixed; and he may refuse to remove it until such articles shall have been removed from such factory and cleaned, or until such room or rooms shall have been cleaned or made sanitary. [*As am'd by L. 1912, ch. 334.*]

Section 392-a of the General Business Law contains special provisions relative to mattress factories as follows:

§ 392-a. Marking mattresses.—No person shall manufacture, sell, offer or expose for sale, deliver or have in his possession with intent to sell or deliver in this state any mattresses, pillow, cushion, muf bed, down quilt or bag containing hair, down or feathers unless the same be branded or labeled as follows: Upon each such mattress, pillow, cushion, muf bed, down quilt or bag there shall be securely fixed a banneret, paper or cloth tag which, if attached to the article itself, shall be sewed thereon upon which there shall be legibly printed in the English language a statement of the kind of material used in the manufacture of such mattress, pillow, cushion, muf bed or down quilt, and, if the material used in such mattress, pillow, cushion, muf bed or down quilt has been previously used in the manufacture of such articles, or about the person, it shall be branded second-hand. If such mattress, pillow, cushion, muf bed, quilt or bag be enclosed in a bale, box or crate, the receptacle shall bear a tag stating that the contents of the package is branded or labeled as required by this section. It shall be unlawful for any person to remove, conceal or deface any such brand or label. No person shall use, either in whole or in part, in the manufacture of any mattress, pillow, cushion or muf bed, down quilt, or bag, any material which has been used in or has formed a part of any mattress, pillow, cushion, muf bed, down quilt or bag used in or about a public or private hospital or in or about any person having an infectious or contagious disease. If on inspection the commissioner of labor shall find in any factory, or other places, materials for the manufacture of mattresses, pillows, muf beds, down quilts or bags, or if he shall find such mattresses, pillows, cushions, muf beds, down quilts or bags offered or intended for sale, the materials for making of which are made of materials that have been used in a hospital or by persons having an infectious or contagious disease, he shall, after first making and filing in the public records of his office a written order stating the reason therefor, at once and without further notice order the removal and destruction of such mattresses, pillows, cushions, muf beds, down quilt or bags, or of the materials intended for the manufacture of such mattresses, pillows, cushions, muf beds, down quilts or bags and affix to such mattresses, pillows, cushions, muf beds, down quilts or bags, or materials, labels or conspicuous signs bearing the word "unclean." No one but the commissioner of labor shall remove any such label or sign and he may refuse to remove it until such factory or other place be properly cleaned and disinfected. It shall be the duty of the state commissioner of labor whenever he has reason to believe that any person is violating or has violated any of the provisions of this section to cause an investigation to be made and for that purpose he or his duly accredited representative shall have authority at all reasonable times to enter into any building, or other place, where such business is being conducted for the purpose of making such examination, and if evidence of such violation is obtained shall place before the attorney-general any information he may have in relation thereto. The attorney-general shall thereupon, or the district attorney of the county in which the alleged violation occurs, if so directed by the attorney-general, institute the proper legal proceedings for the punishment of any such violation. The commissioner of labor may in a proper case through the attorney-general sue for and obtain an injunction restraining any person from manufacturing or selling an article in violation of this section. Any person who shall violate the provisions of this section shall be liable to a penalty of fifty dollars for each violation thereof, which penalties shall be cumulative and may be recovered by the attorney-general and more than one penalty may be included in the same action. [*Added by L. 1913, ch. 503.*]

Penalties for the illegal manufacture and sale of mattresses, etc., are provided by the Penal Law, § 444, p. 220, *post*.

§ 96. Definition of "custodian."—The word "custodian" as used in this article shall include any person, organization or society having the custody of a child.

§ 97. Brass, iron and steel foundries.—1. Foundries shall be subject to all the provisions of this chapter relating to factories.

2. All entrances to foundries shall be so constructed and maintained as to minimize drafts, and all windows therein shall be maintained in proper condition and repair.

3. All gangways in foundries shall be constructed and maintained of sufficient width to make the use thereof by employees reasonably safe; during the progress of casting such gangways shall not be obstructed in any manner.

4. Smoke, steam and gases generated in foundries shall be effectively removed therefrom, in accordance with such rules and regulations as may be adopted with reference thereto by the industrial board, and whenever required by the regulations of such board, exhaust fans of sufficient capacity and power, properly equipped with ducts and hoods, shall be provided and operated to remove such smoke, steam and gases. The milling and cleaning of castings, and milling of cupola cinders, shall be done under such conditions to be prescribed by the rules and regulations of the industrial board as will adequately protect the persons employed in foundries from the dust arising during the process.

5. All foundries shall be properly and thoroughly lighted during working hours and in cold weather proper and sufficient heat shall be provided and maintained therein. The use of heaters discharging smoke or gas into work-rooms is prohibited. In all foundries suitable provisions shall be made and maintained for drying the working clothes of persons employed therein.

6. In every foundry in which ten or more persons are employed or engaged at labor, there shall be provided and maintained for the use of employees therein suitable and convenient washrooms of sufficient capacity adequately equipped with hot and cold water service; such washrooms shall be kept clean and sanitary and shall be properly heated during cold weather. In every such foundry lockers shall be provided for the safe-keeping of employees' clothing. In every foundry in which more than ten persons are employed or engaged at labor where water closets or privy accommodations are permitted by the commissioner of labor to remain outside of the factory under the provisions of section eighty-eight of this chapter, the passageway leading from the foundry to the said water closets or privy accommodations shall be so protected and constructed that the employees in passing thereto or therefrom shall not be exposed to outdoor atmosphere and such water closets or privy accommodations shall be properly heated during cold weather.

7. The flasks, molding machines, ladles, cranes and apparatus for transporting molten metal in foundries shall be maintained in proper condition and repair, and any such tools or implements that are defective shall not be used until properly repaired. There shall be in every foundry, available for immediate use, an ample supply of lime water, olive oil, vaseline, bandages and absorbent cotton, to meet the needs of workmen in case of burns or other accidents; but any other equally efficacious remedy for burns may be substituted for those herein prescribed. [*Section 97 added by L. 1913, ch. 201.*]

For employment of women in foundries see § 93, subd. 4, *ante*, and for the Industrial Code, rules specially applicable to foundries, see pp. 203-210, *post*. Additional requirements for "first aid" kits are established by rules 178-180, pp. 160-161, *post*.

§ 98. Labor camps.—Every employer operating a factory, and furnishing to the employees thereof any living quarters at any place outside the factory, either directly or through any third person by contract or otherwise, shall maintain such living quarters and every part thereof in a thoroughly sanitary condition. The industrial board shall have power to make rules and regulations to provide for the sanitation of such living quarters. The commissioner of labor may enter and inspect any such living quarters. [*Added by L. 1913, ch. 195.*]

For sanitation of cannery labor camps, see Industrial Code, Rules 200–232, pp. 164–170, *post*.

§ 99. Dangerous trades.—Whenever the industrial board shall find as a result of its investigations that any industry, trade or occupation by reason of the nature of the materials used therein or the products thereof or by reason of the methods or processes or machinery or apparatus employed therein or by reason of any other matter or thing connected with such industry, trade or occupation, contains such elements of danger to the lives, health or safety of persons employed therein as to require special regulation for the protection of such persons, said board shall have power to make such special rules and regulations as it may deem necessary to guard against such elements of danger by establishing requirements as to temperature, humidity, the removal of dusts, gases or fumes and requiring licenses to be applied for and issued by the commissioner of labor as a condition of carrying on any such industry, trade or occupation and requiring medical inspection and supervision of persons employed and applying for employment and by other appropriate means. [*Added by L. 1913, ch. 199.*]

§ 99-a. Laws to be posted.—Copies or digests of the provisions of this chapter and of the rules and regulations of the industrial board, applicable thereto, in English and in such other languages as the commissioner of labor may require, to be prepared and furnished by the commissioner of labor, shall be kept posted by the employer in such conspicuous place or places as the commissioner of labor may direct on each floor of every factory where persons are employed who are affected by the provisions thereof. [*Originally § 68 of article 5; renumbered, transferred and am'd by L. 1913, ch. 145.*]

ARTICLE 7

Tenement-made Articles

[An earlier statute, L. 1884, ch. 272, which attempted to prohibit the manufacture of cigars in tenements, was declared unconstitutional: *Matter of Jacobs*, 98 N. Y. 98. Violation is a misdemeanor: Penal Law, § 1275, p. 222, post. "Tenement house" is defined in § 2, ante.]

- Section 100. Manufacturing, altering, repairing or finishing articles in tenements.
 101. Register of persons to whom work is given; identification label.
 102. Goods unlawfully manufactured to be labelled.
 103. Powers and duties of boards of health relative to tenement-made articles.
 104. Manufacture of certain articles in tenements prohibited.
 105. Owners of tenement houses not to permit the unlawful use thereof.
 106. Factory permits.

§ 100. Manufacturing, altering, repairing or finishing articles in tenements.—1. No tenement house nor any part thereof shall be used for the purpose of manufacturing, altering, repairing or finishing therein, any articles whatsoever except for the sole and exclusive use of the person so using any part of such tenement house or the members of his household, without a license therefor as provided in this article. But nothing herein contained shall apply to collars, cuffs, shirts or shirt waists made of cotton or linen fabrics that are subjected to the laundrying process before being offered for sale.

2. Application for such a license shall be made to the commissioner of labor by the owner of such tenement house, or by his duly authorized agent. Such application shall describe the house by street number or otherwise, as the case may be, in such manner as will enable the commissioner of labor easily to find the same; it shall also state the number of apartments in such house; it shall contain the full name and address of the owner of the said house, and shall be in such form as the commissioner of labor may determine. Blank applications shall be prepared and furnished by the commissioner of labor.

3. Upon receipt of such application the commissioner of labor shall consult the records of the local health department or board, or other appropriate local authority charged with the duty of sanitary inspection of such houses; if such records show the presence of any infectious, contagious or communicable disease, or the existence of any uncomplished order or violations which indicate the presence of unsanitary conditions in such house, the commissioner of labor may, without making an inspection of the building, deny such application for a license, and may continue to deny such application until such time as the records of said department, board or other local authority show that the said tenement house is free from the presence of infectious, contagious or communicable disease, and from all unsanitary conditions. Before, however, any such license is granted, an inspection of the building sought to be licensed must be made by the commissioner of labor, and a statement must be filed by him as a matter of public record, to the effect that the records of the local health department or board or other appropriate authority charged with the duty of sanitary inspection of such

houses show the existence of no infectious, contagious or communicable disease nor of any unsanitary conditions in the said house; such statement must be dated and signed in ink with the full name of the employee responsible therefor. A similar statement similarly signed, showing the results of the inspection of the said building, must also be filed in the office of the commissioner of labor before any license is granted. If the commissioner of labor ascertain that such building is free from infectious, contagious or communicable disease that there are no defects of plumbing that will permit the entrance of sewer air, that such building is in a clean and proper sanitary condition and that articles may be manufactured therein under clean and healthful conditions, he shall grant a license permitting the use of such building, for the purpose of manufacturing.

4. Such license may be revoked by the commissioner of labor if the health of the community or of the employees requires it, or if the owner of the said tenement house, or his duly authorized agent, fails to comply with the orders of the commissioner of labor within ten days after the receipt of such orders, or if it appears that the building to which such license relates is not in a healthy and proper sanitary condition, or if children are employed therein in violation of section seventy of this chapter. In every case where a license is revoked or denied by the commissioner of labor the reasons therefor shall be stated in writing, and the records of such revocation or denial shall be deemed public records. Where a license is revoked, before such tenement house can again be used for the purposes specified in this section, a new license must be obtained, as if no license had previously existed.

5. Every tenement house and all the parts thereof in which any articles are manufactured, altered, repaired or finished shall be kept in a clean and sanitary condition and shall be subject to inspection and examination by the commissioner of labor, for the purpose of ascertaining whether said garments or articles, or part or parts thereof, are clean and free from vermin and every matter of an infectious or contagious nature. An inspection shall be made by the commissioner of labor of each licensed tenement house not less than once in every six months, to determine its sanitary condition, and shall include all parts of such house and the plumbing thereof. Before making such inspection the commissioner of labor may consult the records of the local department or board charged with the duty of sanitary inspection of tenement houses, to determine the frequency of orders issued by such department or board in relation to the said tenement house, since the last inspection of such building was made by the commissioner of labor. Whenever the commissioner of labor finds any unsanitary condition in a tenement house for which a license has been issued as provided in this section, he shall at once issue an order to the owner thereof directing him to remedy such condition forthwith. Whenever the commissioner of labor finds any articles manufactured, altered, repaired or finished, or in process thereof, in a room or apartment of a tenement house, and such room or apartment is in a filthy condition, he shall notify the tenants thereof to immediately clean the same, and to maintain it in a cleanly condition at all times; where the commissioner of labor finds such room or apartment to be habitually kept in a filthy condition, he may in his discretion cause to be affixed to the entrance door of such apartment a placard calling attention to such facts and prohibiting the manufacture, alteration,

repair or finishing of any articles therein. No person, except the commissioner of labor, shall remove or deface any such placard so affixed.

See provision for "tagging" of infected or unclean goods specified in this section, in tenant-factories in § 95, *ante*.

6. No articles shall be manufactured, altered, repaired or finished in any room or apartment of a tenement house where there is or has been a case of infectious, contagious or communicable disease in such room or apartment, until such time as the local department or board of health shall certify to the commissioner of labor that such disease has terminated, and that said room or apartment has been properly disinfected, if disinfection after such disease is required by the local ordinances, or by the rules or regulations of such department or board. No articles shall be manufactured, altered, repaired or finished in a part of a cellar or basement of a tenement house, which is more than one-half of its height below the level of the curb or ground outside of or adjoining the same; but this prohibition shall not apply to the use for a bakery of a cellar for which a certificate of exemption is issued under section one hundred and sixteen of this chapter. No person shall hire, employ or contract with any person to manufacture, alter, repair or finish any articles in any room or apartment in any tenement house not having a license therefor issued as aforesaid. No articles shall be manufactured, altered, repaired or finished in any room or apartment of a tenement house unless said room or apartment shall be well lighted and ventilated and shall contain at least five hundred cubic feet of air space for every person working therein, or by any person other than the members of the family living therein; except that in licensed tenement houses persons not members of the family may be employed in apartments on the ground floor or second floor, used only for shops of dressmakers who deal solely in the custom trade direct to the consumer, provided that such apartments shall be in the opinion of the commissioner of labor in the highest degree sanitary, well lighted, well ventilated and plumbed, and provided further that the whole number of persons therein shall not exceed one to each one thousand cubic feet of air space, and that there shall be no children under fourteen years of age living or working therein; before any such room or apartment can be so used a special permit therefor shall be issued by the commissioner of labor, a copy of which shall be entered in his public records with a statement of the reasons therefor. Nothing in this section contained shall prevent the employment of a tailor or seamstress by any person or family for the purpose of making, altering, repairing or finishing any article of wearing apparel for the use of such person or family. Nor shall this article apply to a house if the only manufacturing therein be carried on in a shop on the main or ground floor thereof with a separate entrance to the street, unconnected with living rooms and entirely separate from the rest of the building by closed partitions without any openings whatsoever and not used for sleeping or cooking. [Section 100 am'd by L. 1913, ch. 260.]

§ 101. Register of persons to whom work is given; identification label.—Every employer in any factory contracting for the manufacturing, altering, repairing or finishing of any articles in a tenement house or giving out material from which they or any part of them are to be manufactured, altered, repaired or finished, in a tenement house, shall keep a register of the names

and addresses plainly written in English of the persons to whom such articles or materials are given to be so manufactured, altered, repaired or finished or with whom they have contracted to do the same, and shall issue with all such articles or materials a label bearing the name and place of business of such factory written or printed legibly in English. It shall be incumbent upon every employer and upon all persons contracting for the manufacturing, altering, repairing or finishing of any articles or giving out material from which they or any part of them are to be manufactured, altered, repaired or finished, before giving out any such articles or materials to ascertain from the office of the commissioner of labor whether the tenement house in which such articles or materials are to be manufactured, altered, repaired or finished, is licensed as provided in this article, and also to ascertain from the local department or board of health the names and addresses of all persons then sick of any infectious, contagious or communicable disease, and residing in tenement houses; and none of the said articles nor any material from which they or any part of them are to be manufactured, altered, repaired or finished shall be given out or sent to any person residing in a tenement house that is not licensed as provided in this article, or to any person residing in a room or apartment in which there exists any infectious, contagious or communicable disease. The register mentioned in this section shall be subject to inspection by the commissioner of labor, and a copy thereof shall be furnished on his demand as well as such other information as he may require. The label mentioned in this section shall be exhibited on the demand of the commissioner of labor at any time while said articles or materials remain in the tenement house. [*As am'd by L. 1913, ch. 260.*]

§ 102. Goods unlawfully manufactured to be labeled.—Articles manufactured, altered, repaired or finished in a tenement house contrary to the provisions of this chapter shall not be sold or exposed for sale by any person. The commissioner of labor may conspicuously affix to any such article found to be unlawfully manufactured, altered, repaired or finished, a label containing the words "tenement made" printed in small pica capital letters on a tag not less than four inches in length, or may seize and hold such article until the same shall be disinfected or cleaned at the owner's expense, or until all provisions of this chapter are complied with. The commissioner of labor shall notify the person stated by the person in possession of said article to be the owner thereof, that he has so labeled or seized it. No person except the commissioner of labor, or a local board of health in a case provided for in section one hundred and three, shall remove or deface any tag or label so affixed. Unless the owner or person entitled to the possession of an article so seized shall provide for the disinfection or cleaning thereof within one month thereafter it may be destroyed. [*As am'd by L. 1913, ch. 260.*]

§ 103. Powers and duties of boards of health relative to tenement-made articles.—If the commissioner of labor finds evidence of disease present in a room or apartment in a tenement house in which any articles are manufactured, altered, repaired or finished or in process thereof, he shall affix to such article the label prescribed in the preceding section, and immediately report to the local board of health, who shall disinfect such articles, if necessary, and thereupon remove such label. If the commissioner of labor finds that infectious, contagious or communicable diseases exist in a room or apartment

of a tenement house in which any articles are being manufactured, altered, repaired or finished, or that articles manufactured or in process of manufacture therein are infected or that goods used therein are unfit for use, he shall report to the local board of health. The local health department or board in every city, town and village whenever there is any infectious, contagious or communicable disease in a tenement house shall cause an inspection of such tenement house to be made within forty-eight hours. If any articles are found to be manufactured, altered, repaired or finished, or in process thereof in an apartment in which such disease exists, such board shall issue such order as the public health may require, and shall at once report such facts to the commissioner of labor, furnishing such further information as he may require. Such board may condemn and destroy all such infected article or articles manufactured or in the process of manufacture under unclean or unhealthful conditions. The local health department or board or other appropriate authority charged with the duty of sanitary inspection of such houses in every city, town and village shall, when so requested by the commissioner of labor, furnish copies of its records as to the presence of infectious, contagious or communicable disease, or of unsanitary conditions in said houses; and shall furnish such other information as may be necessary to enable the commissioner of labor to carry out the provisions of this article. [As am'd by L. 1913, ch. 260.]

With this section is to be compared section 33 of the Public Health Law (ch. 40. Consolidated Laws), which reads as follows:

Section 33. *Manufactures in tenement houses and dwellings.*—No room or apartment in a tenement or dwelling house, used for eating or sleeping purposes, shall be used for the manufacture, wholly or partly, of coats, vests, trousers, knee-pants, overalls, cloaks, shirts, purses, feathers, artificial flowers or cigars, except by the members of the family living therein, which shall include a husband and wife and their children, or the children of either. A family occupying or controlling such a workshop shall, within fourteen days from the time of beginning work therein, notify the board of health of the city, village or town, where such workshop is located, or a special inspector appointed by such board, of the location of such workshop, the nature of the work carried on, and the number of persons employed therein; and thereupon such board shall, if it deems advisable, cause a permit to be issued to such family to carry on the manufacture specified in the notice. Such board may appoint as many persons as it deems advisable to act as special inspectors. Such special inspectors shall receive no compensation, but may be paid by the board their reasonable and necessary expenses. If a board of health or such inspector shall find evidence of infectious or contagious diseases present in any workshop, or in goods manufactured or in process of manufacture therein, the board shall issue such orders as the public health may require, and shall condemn and destroy such infectious and contagious articles, and may, if necessary to protect the public health, revoke any permit granted by it for manufacturing goods in such workshop. If a board of health or any such inspector shall discover that any such goods are being brought into the state, having been manufactured, in whole or in part, under unhealthy conditions, such board or inspector shall examine such goods, and if they are found to contain vermin, or to have been made in improper places or under unhealthy conditions, the board may make such orders as the public health may require, and may condemn and destroy such goods.

§ 104. *Manufacturing of certain articles in tenements prohibited.*—No article of food, no dolls or dolls' clothing and no article of children's or infants' wearing apparel shall be manufactured, altered, repaired or finished, in whole or in part, for a factory, either directly or through the instrumentality of one or more contractors or other third person, in a tenement house, in any portion of an apartment, any part of which is used for living purposes. [Added by L. 1913, ch. 260.]

§ 105. Owners of tenement houses not to permit the unlawful use thereof.— The owner or agent of a tenement house shall not permit the use thereof for the manufacture, repair, alteration or finishing of any article contrary to the provisions of this chapter. If a room or apartment in such tenement house be so unlawfully used, the commissioner of labor shall serve a notice thereof upon such owner or agent. Unless such owner or agent shall cause such unlawful manufacture to be discontinued within ten days after the service of such notice, or within fifteen days thereafter institutes and faithfully prosecutes proceedings for dispossession of the occupant of a tenement house, who unlawfully manufactures, repairs, alters or finishes any articles therein, he shall be deemed guilty of a violation of this chapter as if he, himself, was engaged in such unlawful manufacture, repair, alteration or finishing. The unlawful manufacture, repair, alteration or finishing of any articles by the occupant of a room or apartment of a tenement house shall be a cause for dispossessing such occupant by summary proceedings to recover possession of real property, as provided in the code of civil procedure. [*As am'd by L. 1913, ch. 260.*]

§ 106. Factory permits.— The owner of every factory for which any articles are manufactured in any tenement house shall secure a permit therefor from the commissioner of labor who shall issue such permit to any such owner applying therefor. Such permit may be revoked or suspended by the commissioner of labor whenever any provision of this article or of section seventy of this chapter is violated in connection with any work for such factory. Such permit may be reissued or reinstated in the discretion of the commissioner when such violation has ceased. No articles shall be manufactured in any tenement house for any factory for which no permit has been issued or for any factory whose permit is suspended or revoked. A complete list of all factories holding such permits, together with the name of the owner of each such factory, the address of the business and the name under which it is carried on, and of all tenement houses holding licenses, and a list of all permits and licenses revoked or suspended shall be published from time to time by the department of labor. [*Added by L. 1913, ch. 260.*]

ARTICLE 8

Bakeries and Confectioneries

[Non-compliance with the provisions of this article is a misdemeanor: Penal Law, § 1275, p. 222, post. The provisions of article 6 as to factories generally, apply to bakeries and confectioneries: § 111; the provisions of § 40 of the Tenement House Law (ch. 61 of Consolidated Laws) apply to bakeries in tenement houses. For sanitary code for bakeries and confectioneries, see Industrial Code, Rules 300-347, pp. 170-175, post.]

Section 110. Enforcement of article.

111. Definitions.

112. General requirements.

113. Maintenance.

113a. Prohibited employment of diseased bakers.

114. Inspection of bakeries.

115. Sanitary certificates.

116. Prohibition of future cellar bakeries.

117. Sanitary code for bakeries and confectioneries.

§ 110. Enforcement of article.—In every city of the first class the health department of such city shall have exclusive jurisdiction to enforce the provisions of this article. In the application of any provision of this article to any city of the first class, the words “commissioner of labor” or “department of labor” shall be understood to mean the health department of such city. *[Added by L. 1913, ch. 463.]*

§ 111. Definitions.—All buildings, rooms or places used or occupied for the purpose of making, preparing or baking bread, biscuits, pastry, cakes, doughnuts, crullers, noodles, macaroni or spaghetti to be sold or consumed on or off the premises, except kitchens in hotels, restaurants, boarding houses or private residences wherein such products are prepared to be used and are used exclusively on the premises, shall for the purpose of this article be deemed bakeries. The commissioner of labor shall have the same powers with respect to the machinery, safety devices and sanitary conditions in hotel bakeries that he has with respect thereto in bakeries as defined by this chapter. In cities of the first class the health department’s jurisdiction over hotel bakeries shall not extend to the machinery safety devices and hours of labor of employees therein. The term cellar when used in this article shall mean a room or a part of a building which is more than one-half its height below the level of the curb or ground adjoining the building (excluding areaways). The term owner as used in this article shall be construed to mean the owner or owners of the freehold of the premises, or the lessee or joint lessees of the whole thereof, or his, her or their agent in charge of the property. The term occupier shall be construed to mean the person, firm or corporation in actual possession of the premises, who either himself makes, prepares or bakes any of the articles mentioned in this section, or hires or employs others to do it for him. Bakeries are factories within the meaning of this chapter, and subject to all the provisions of article six hereof. *[As am’d by L. 1911, ch. 637; and L. 1913, ch. 463.]*

§ 112. General requirements.—All bakeries shall be provided with proper and sufficient drainage and with suitable sinks, supplied with clean running water for the purpose of washing and keeping clean the utensils and apparatus used therein. All bakeries shall be provided with proper and adequate

windows, and if required by the rules and regulations of the industrial board, with ventilating hoods and pipes over ovens and ashpits, or with other mechanical means, to so ventilate same as to render harmless to the persons working therein any steam, gases, vapors, dust, excessive heat or any impurities that may be generated or released by or in the process of making, preparing or baking in said bakeries. Every bakery shall be at least eight feet in height measured from the surface of the finished floor to the under side of the ceiling, and shall have a flooring of even, smooth cement, or of tiles laid in cement, or a wooden floor, so laid and constructed as to be free from cracks, holes and interstices, except that any cellar or basement less than eight feet in height which was used for a bakery on the second day of May, eighteen hundred and ninety-five, need not be altered to conform to this provision with respect to height; the side walls and ceilings shall be either plastered, ceiled or wainscoted. Every bakery shall be provided with a sufficient number of water-closets, and such water-closets shall be separate and apart from and unconnected with the bakeroom or rooms where food products are stored or sold. [*As am'd by L. 1911, ch. 637; and L. 1913, ch. 463.*]

§ 113. Maintenance.—All floors, walls, stairs, shelves, furniture, utensils, yards, areaways, plumbing, drains and sewers, in or in connection with bakeries, or in bakery water-closets and washrooms, or rooms where raw materials are stored, or in rooms where the manufactured product is stored, shall at all times be kept in good repair, and maintained in a clean and sanitary condition, free from all kinds of vermin. All interior woodwork, walls and ceilings shall be painted or limewashed once every three months, where so required by the commissioner of labor. Proper sanitary receptacles shall be provided and used for storing coal, ashes, refuse and garbage. Receptacles for refuse and garbage shall have their contents removed from bakeries daily and shall be maintained in a clean and sanitary condition at all times; the use of tobacco in any form in a bakery or room where raw material or manufactured product of such bakery is stored is prohibited. No person shall sleep, or be permitted, allowed or suffered to sleep in a bakery, or in any room where raw material or the manufactured product of such bakery is stored or sold, and no domestic animals or birds, except cats shall be allowed to remain in any such rooms. Mechanical means of ventilation, when provided, shall be effectively used and operated. Windows, doors and other openings shall be provided with proper screens. All employees, while engaged in the manufacture and handling of bread shall wear slippers or shoes and suits of washable material which shall be used for that purpose only and such garments shall be kept clean at all times. Lockers shall be provided for the street clothes of the employees. The furniture, troughs and utensils shall be so arranged and constructed as not to prevent their cleaning or the cleaning of every part of the bakery. [*As am'd by L. 1911, ch. 637; and L. 1913, ch. 463.*]

§ 113-a. Prohibited employment of diseased bakers.—No person who has any communicable disease shall work or be permitted to work in a bakery. Whenever required by a medical inspector of the department of labor, any person employed in a bakery shall submit to a physical examination by such inspector. No person who refuses to submit to such examination shall work or be permitted to work in any bakery. [*Added by L. 1913, ch. 463.*]

§ 114. **Inspection of bakeries.**—It shall be the duty of the owner of a building wherein a bakery is located to comply with all the provisions of section one hundred and twelve of this article, and of the occupier to comply with all the provisions of section one hundred and thirteen of this article, unless by the terms of a valid lease the responsibility for compliance therewith has been undertaken by the other party to the lease, and a duplicate original lease, containing such obligation, shall have been previously filed in the office of the commissioner of labor, in which event the party assuming the responsibility shall be responsible for such compliance. The commissioner of labor may, in his discretion, apply any or all of the provisions of this article to a factory located in a cellar wherein any food product is manufactured, provided that basements or cellars used as confectionery or ice-cream manufacturing shops shall not be required to conform to the requirement as to height of rooms. Such establishments shall be not less than seven feet in height, except that any cellar or basement so used before October first, nineteen hundred and six, which is more than six feet in height need not be altered to conform to this provision. If on inspection the commissioner of labor find a bakery or any part thereof to be so unclean, ill-drained or ill-ventilated as to be unsanitary, he may, after not less than forty-eight hours' notice in writing, to be served by affixing the notice on the inside of the main entrance door of said bakery, order the person found in charge thereof immediately to cease operating it until it shall be properly cleaned, drained or ventilated. If such bakery be thereupon continued in operation or be thereafter operated before it be properly cleaned, drained or ventilated, the commissioner of labor may, after first making and filing in the public records of his office a written order stating the reasons therefor, at once and without further notice fasten up and seal the oven or other cooking apparatus of said bakery, and affix to all materials, receptacles, tools and instruments found therein, labels or conspicuous signs bearing the word "unclean." No one but the commissioner of labor shall remove any such seal, label or sign, and he may refuse to remove it until such bakery be properly cleaned, drained or ventilated. [*As am'd by L. 1911, ch. 637; and L. 1913, ch. 463.*]

§ 115. **Sanitary certificates.**—1. No person, firm or corporation shall establish, maintain or operate a bakery without obtaining a sanitary certificate from the department of labor. Application for such certificate shall be made to the commissioner of labor by the occupier of the bakery or by the person, firm or corporation desiring to establish or conduct such bakery. The application for a sanitary certificate shall be made in such form and shall contain such information as the commissioner of labor may require. Blank applications for such certificate shall be prepared and furnished by the commissioner of labor.

2. Upon the receipt of such application for a sanitary certificate, the commissioner of labor shall cause an inspection to be made of the building, room or place described in the application. If the bakery conforms to the provisions of articles six and eight of this chapter and the rules and regulations of the industrial board, or in any city of the first class if the bakery conforms to the provisions of article eight of this chapter, and to the sanitary code and the rules and regulations of the department of health of any such city, the commissioner of labor shall issue a sanitary certificate for such bakery. Such certificate shall be for a period of one year and shall

ARTICLE 9

Mines, Tunnels and Quarries and Their Inspection

[Non-compliance with the provisions of this article is a misdemeanor: Penal Law, § 1270, subd. 2, p. 221, post. Violation of any of the safety provisions of the article renders the master liable in case of injury to employees: § 202, post.]

Section 119. Protection of employees in mines, tunnels and quarries.

- 120. Duties of commissioner of labor relating to mines, tunnels and quarries; record and report.
- 121. Outlets of mines.
- 122. Ventilation and timbering of mines and tunnels.
- 123. Riding on loaded cars; storage of inflammable supplies.
- 124. Inspection of steam boilers and apparatus; steam, air and water
*guages.
- 125. Use of explosives; blasting.
- 126. Report of accidents.
- 127. Notice of dangerous condition.
- 128. Travelling ways.
- 129. Notice of opening new mine, shaft or quarry.
- 130. Notice of abandonment.
- 131. Employment of women and children.
- 132. Underground workings to be equipped with head house and doors.
- 133. Mines and tunnels to be equipped with wash-rooms.
- 134. Method of exploding blasts.
- 134-a. Hours of labor.
- 134-b. Medical attendance and regulations.
- 134-c. Penalties.
- 134-d. Air pipes in tunnels and caissons.
- 134-e. Electric lights in tunnels and caissons.
- 135. Enforcement of article.
- 136. Admission of inspectors to mines and tunnels.

§ 119. Protection of employees in mines, tunnels and quarries.—Every necessary precaution shall be taken to insure the safety and health of employees employed in the mines and quarries and in the construction of tunnels in the state. The industrial board shall have power to adopt rules and regulations to carry into effect the provisions of this article and may amend or repeal rules and regulations heretofore prescribed by the commissioner of labor under the provisions of this article. The rules and regulations heretofore prescribed by the commissioner of labor† under this article shall continue in force until amended or repealed by the industrial board. *[Added by L. 1913, ch. 145.]*

§ 120. Duties of commissioner of labor relating to mines, tunnels and quarries; record and report.—1. The commissioner of labor shall enforce the provisions of this article, the rules and regulations adopted by the industrial board pursuant thereto, and the rules and regulations of the commissioner of labor continued in force by this article. *[Subd. 1 added by L. 1913, ch. 145.]*

2. The commissioner of labor shall keep a record of the names and location of all mines, tunnels and quarries, and the names of the persons or corporations owning and operating such mines, and quarries and constructing tunnels

* So in original.

† See rules and regulations prescribed by commissioner of labor, following § 136, post.

thereof; examine carefully into the method of timbering shafts, drifts, inclines, slopes, and tunnels, through which employees and other persons pass, in the performance of their daily labor, and see that the persons or corporations owning and operating such mines, and quarries and constructing tunnels comply with the provisions of this chapter; and such information shall be furnished by the person operating such mine, tunnel or quarry, upon the demand of the commissioner of labor. The commissioner of labor shall keep a record of all mine, tunnel and quarry examinations, showing the date thereof, and the condition in which the mines, tunnels and quarries are found, and the manner of working the same. He shall make an annual report to the legislature during the month of January, containing a statement of the number of mines, tunnels and quarries visited, the number in operation, the number of men employed, and the number and cause of accidents, fatal and nonfatal, that may have occurred in and about the same. [Subd. 2 am'd by L. 1913, ch. 145.]

§ 121. Outlets of mines.—If, in the opinion of the commissioner of labor, it is necessary for safety of employees, the owner, operator or superintendent of a mine operating through either a vertical or inclined shaft, or a horizontal tunnel, shall not employ any person therein unless there are in connection with the subterranean workings thereof not less than two openings or outlets, at least one hundred and fifty feet apart, and connected with each other. Such openings or outlets shall be so constructed as to provide safe and distinct means of ingress and egress from and to the surface, at all times, for the use of the employees of such mine.

§ 122. Ventilation and timbering of mines and tunnels.—In each mine or tunnel a ventilating current shall be conducted and circulated along the face of all working places and through the roadways, in sufficient quantities to insure the safety of employees and remove smoke and noxious gases.

Each owner, agent, manager or lessee of a mine or tunnel shall cause it to be properly timbered, and the roof and sides of each working place therein properly secured. No person shall be required or permitted to work in an unsafe place or under dangerous material, except to make it secure.

§ 123. Riding on loaded cars; storage of inflammable supplies.—No person shall ride or be permitted to ride on any loaded car, cage or bucket into or out of a mine or tunnel in process of construction. No powder or oils of any description shall be stored in a mine, tunnel or quarry, or in or around shafts, engine or boiler-houses, and all supplies of an inflammable and destructive nature shall be stored at a safe distance from the mine or tunnel openings.

§ 124. Inspection of steam boilers and apparatus; steam, air and water gauges.—All boilers used in generating steam for mining or tunneling purposes shall be kept in good order, and the owner, agent, manager or lessee of such mine or tunnel shall have such boilers inspected by a competent person, approved by the commissioner of labor, once in six months, and shall file a certificate showing the result thereof in the mine or tunnel office and a duplicate thereof in the office of the commissioner of labor. All engines, brakes, cages, buckets, ropes and chains shall be kept in good order and inspected daily by the superintendent of the mine or tunnel or a person designated by him. All lifts, hoists, ropes and other mechanical devices shall be properly designed and maintained to sustain the weight intended to be placed thereon

or suspended therefrom, such factors of safety being used as are generally accepted as sufficient by competent engineers, and all cars and lifts shall be supplied with safety brakes. All hoisting ropes shall at all times be of a breaking strength of not less than five times the gross load suspended from them, including weight of rope itself. Each boiler or battery of boilers used in mining or tunneling for generating steam, shall be provided with a proper safety valve and with steam and water gauges, to show, respectively, the pressure of steam and the height of water in the boilers. Every boiler-house in which a boiler or nest of boilers is placed, shall be provided with steam gauge properly connected with the boilers, and another steam gauge shall be attached to the steam pipe in the engine-house, and so placed that the engineer or fireman can readily ascertain the pressure carried. Every tunnel in which men are working under artificial air pressure shall be furnished with properly equipped and placed gauges capable at all times of showing the weight or pressure of air in said tunnel, and said gauge shall at all times during working hours be accessible to all persons working on said tunnel.

§ 125. Use of explosives; blasting.—When high explosives other than gunpowder are used in a mine, tunnel or quarry, the manner of storing, keeping, moving, charging and firing, or in any manner using such explosives, shall be in accordance with rules* prescribed by the commissioner of labor.

In charging holes for blasting, in slate, rock or ore in any mine, tunnel or quarry, no iron or steel pointed needle or tamping bar shall be used, unless the end thereof is tipped with at least six inches of copper or other soft material. No person shall be employed to blast unless the mine or tunnel superintendent, or person having charge of such mine or tunnel is satisfied that he is qualified, by experience, to perform the work with ordinary safety. When a blast is about to be fired in a mine or tunnel, timely notice thereof shall be given by the person in charge of the work, to all persons who may be in danger therefrom.

§ 126. Report of accidents.—Whenever loss of life or an accident causing an injury incapacitating any person for work shall occur in the operation of a mine or quarry, or in the construction or repair of a tunnel, the owner, agent, manager, lessee, contractor, subcontractor, or person in charge thereof, shall keep a correct record of all deaths, accidents or injuries sustained by any person therein or on the premises or works, in such form as may be required by the commissioner of labor. Such record shall be open to the inspection of the commissioner of labor and a copy thereof shall be furnished to the said commissioner on demand. Within forty-eight hours after the accident, death or injury a report thereof shall be made in writing to the commissioner of labor, stating as fully as possible the cause of the death or the extent and cause of the injury, and the place where the injured person has been sent, with such other or further information relative thereto as may be required by the said commissioner, who may investigate the causes

* See rules and regulations prescribed by commissioner of labor, following § 136, *post*. See also art. 15-a, §§ 230-239-a, *post*, governing the storage, transportation and sale of explosives.

thereof and require such precautions to be taken as will prevent the recurrence of similar happenings. No statement contained in any such report shall be admissible in evidence in any action arising out of the death or accident therein reported. [*As am'd by L. 1910, ch. 155.*]

Compare § 20-a, *ante*, building accidents, and § 87, factory accidents; also §§ 96 and 111 of the Workmen's Compensation Law, pp. 244, 247, *post*.

§ 127. Notice of dangerous condition.—If the commissioner of labor, after examination or otherwise, is of the opinion that a mine or tunnel or any thing used in the operation thereof is unsafe, he shall immediately serve a written notice, specifying the defects, upon the owner, agent, manager or lessee, who shall forthwith remedy the same.

§ 128. Traveling ways.—In all mines there shall be cut out of or around the sides of every hoisting shaft or driven through the solid strata at the bottom thereof, a traveling way not less than five feet high and three feet wide to enable persons to pass the shaft in going from one side to the other without passing over or under or in the way of the cage or other hoisting apparatus.

§ 129. Notice of opening new mine, shaft or quarry.—Whenever a mine or quarry operator has engaged or is about to engage in the development of new industries by the sinking of new shafts, inclines, tunnels or quarries, he shall report to the commissioner of labor, giving the name of the owner or owners, and the location of the property, before the work of excavation shall have reached the depth of twenty-five feet.

§ 130. Notice of abandonment.—It shall be the duty of every mine or quarry operator to notify the commissioner of labor of the discontinuance or abandonment of any mine or quarry, when and in the event that such mine or quarry shall be closed permanently or abandoned.

§ 131. Employment of women and children.—No child under sixteen years of age shall be employed, permitted or suffered to work in or in connection with any mine or quarry in this state. No female shall be employed, permitted or suffered to work in any mine or quarry in this state.

§ 132. Underground workings to be equipped with head house and doors.—Every underground working where the depth exceeds forty feet shall be equipped with a proper head house and trapdoors.

§ 133. Mines and tunnels to be equipped with wash-rooms.—Every mine, tunnel or quarry employing over twenty-five men shall maintain a suitably equipped and heated wash-room, which shall be at all times accessible to the men employed.

§ 134. Method of exploding blasts.—No blast shall be exploded by an electric current of more than two hundred and fifty volts.

§ 134-a. Hours of labor.—All work in the prosecution of which tunnels, caissons or other apparatus or means in which compressed air is employed or used shall be conducted subject to the following restrictions and regulations: When the air pressure in any compartment, caisson, tunnel or place in which men are employed is greater than normal and shall not exceed

twenty-one pounds to the square inch, no employee shall be permitted to work or remain therein more than eight hours in any twenty-four hours and shall only be permitted to work under such air pressure provided he shall during such period return to the open air for an interval of at least thirty consecutive minutes, which interval his employer shall provide for. When the air pressure in any compartment, caisson, tunnel or place in which men are employed is greater than normal and shall equal twenty-two pounds to the square inch and does not exceed thirty pounds to the square inch, no employee shall be permitted to work or remain therein more than six hours in any twenty-four hours, such six hours to be divided into two periods of three hours each with an interval of at least one hour between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall exceed thirty pounds to the square inch, and shall not equal thirty-five pounds to the square inch, no employee shall be permitted to work or remain therein more than four hours, such four hours to be divided into two periods of two hours each, with an interval of at least two hours between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall equal thirty-five pounds to the square inch and shall not exceed forty pounds to the square inch, no such employee shall be permitted to work or remain therein more than three hours in any twenty-four hours, such three hours to be divided into periods of not more than one and one-half hours each, with an interval of at least three hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty pounds to the square inch and shall not equal forty-five pounds to the square inch, no employee shall be permitted to work or remain therein more than two hours in any twenty-four hours, such two hours to be divided into periods of not more than one hour each, with an interval of at least four hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty-five pounds to the square inch and shall not exceed fifty pounds to the square inch, no employee shall be permitted to work or remain therein more than ninety minutes in any twenty-four hours, and such ninety minutes to be divided into periods of forty-five minutes each, with an interval of not less than five hours between each such period; no employee shall be permitted to work in any compartment, caisson, tunnel or place where the pressure shall exceed fifty pounds to the square inch, except in case of emergency. No person employed in work in compressed air shall be permitted by his employer or by the person in charge of said work to pass from the place in which the work is being done to atmosphere of normal pressure, without passing through an intermediate lock or stage of decompression, which said decompression shall be, where the work is being done in tunnels, at the rate of three pounds every two minutes unless the pressure shall be over thirty-six pounds, in which event the decompression shall be at the rate of one pound per minute; and which said decompression shall be, where the work is being done in caissons, at the following rates:

Where pressure is not over ten pounds per square inch the time of decompression shall be one minute; when pressure is over ten pounds per square inch, but does not exceed fifteen pounds per square inch, the time of decom-

pression shall be two minutes; when pressure is over fifteen pounds per square inch, but does not exceed twenty pounds per square inch, the time of the decompression shall be five minutes; when pressure is over twenty pounds per square inch, but does not exceed twenty-five pounds per square inch, the time of decompression shall be ten minutes; when pressure is over twenty-five pounds per square inch but does not exceed thirty pounds per square inch, the time of decompression shall be twelve minutes; when pressure is over thirty pounds per square inch, but does not exceed thirty-six pounds per square inch, the time of decompression shall be fifteen minutes; when pressure is over thirty-six pounds per square inch, but does not exceed forty pounds per square inch, the time of decompression shall be twenty minutes; when pressure is over forty pounds per square inch, but does not exceed fifty pounds per square inch, the time of decompression shall be twenty-five minutes.

All necessary instruments shall be attached to all caissons and air locks showing the actual air pressure to which men employed therein are subjected and which instruments shall be accessible to and in charge of a competent person who shall not be employed more than eight hours in any twenty-four hours. [*Added by L. 1909, ch. 291; am'd by L. 1912, ch. 219; and L. 1913, ch. 528.*]

§ 134-b. **Medical attendance and regulations.**—Any person or corporation carrying on any tunnel, caisson or other work in the prosecution of which men are employed or permitted to work in compressed air, shall, while such men are so employed, also employ and keep in employment, one or more duly qualified persons to act as medical officer or officers who shall be in attendance at all necessary times while such work is in progress and whose duty it shall be to administer and strictly enforce the following:

(a) No person shall be permitted to work in compressed air until after he shall have been examined by such medical officer and reported by such officer to the person in charge thereof as found to be qualified, physically, to engage in such work.

(b) In the event of absence from work, by an employee for ten or more successive days for any cause, he shall not resume work until he shall have been re-examined by the medical officer and his physical condition reported as hitherto provided to be such as to permit him to work in compressed air.

(c) No person known to be addicted to the excessive use of intoxicants shall be permitted to work in compressed air.

(d) No person not having previously worked in compressed air shall be permitted during the first twenty-four hours of his employment to work for longer than one-half of a day period as provided in section one hundred and thirty-four-a and after so working shall be re-examined and not permitted to work in a place where the pressure is in excess of fifteen pounds unless his physical condition be reported by the medical officer as heretofore provided to be such as to qualify him for such work. [*Subd. (d) am'd by L. 1912, ch. 219.*]

(e) After a person has been employed continuously in compressed air for a period of three months he shall be re-examined by the medical officer and he shall not be allowed, permitted or compelled to work until such examination has been made and he has been reported as heretofore provided as physically qualified to engage in compressed air work.

twenty-one pounds to the square inch, no employee shall be permitted to work or remain therein more than eight hours in any twenty-four hours and shall only be permitted to work under such air pressure provided he shall during such period return to the open air for an interval of at least thirty consecutive minutes, which interval his employer shall provide for. When the air pressure in any compartment, caisson, tunnel or place in which men are employed is greater than normal and shall equal twenty-two pounds to the square inch and does not exceed thirty pounds to the square inch, no employee shall be permitted to work or remain therein more than six hours in any twenty-four hours, such six hours to be divided into two periods of three hours each with an interval of at least one hour between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall exceed thirty pounds to the square inch, and shall not equal thirty-five pounds to the square inch, no employee shall be permitted to work or remain therein more than four hours, such four hours to be divided into two periods of two hours each, with an interval of at least two hours between each such period. When the air pressure in any such compartment, caisson, tunnel or place shall equal thirty-five pounds to the square inch and shall not exceed forty pounds to the square inch, no such employee shall be permitted to work or remain therein more than three hours in any twenty-four hours, such three hours to be divided into periods of not more than one and one-half hours each, with an interval of at least three hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty pounds to the square inch and shall not equal forty-five pounds to the square inch, no employee shall be permitted to work or remain therein more than two hours in any twenty-four hours, such two hours to be divided into periods of not more than one hour each, with an interval of at least four hours between each such period; when the air pressure in any such compartment, caisson, tunnel or place shall equal forty-five pounds to the square inch and shall not exceed fifty pounds to the square inch, no employee shall be permitted to work or remain therein more than ninety minutes in any twenty-four hours, and such ninety minutes to be divided into periods of forty-five minutes each, with an interval of not less than five hours between each such period; no employee shall be permitted to work in any compartment, caisson, tunnel or place where the pressure shall exceed fifty pounds to the square inch, except in case of emergency. No person employed in work in compressed air shall be permitted by his employer or by the person in charge of said work to pass from the place in which the work is being done to atmosphere of normal pressure, without passing through an intermediate lock or stage of decompression, which said decompression shall be, where the work is being done in tunnels, at the rate of three pounds every two minutes unless the pressure shall be over thirty-six pounds, in which event the decompression shall be at the rate of one pound per minute; and which said decompression shall be, where the work is being done in caissons, at the following rates:

Where pressure is not over ten pounds per square inch the time of decompression shall be one minute; when pressure is over ten pounds per square inch, but does not exceed fifteen pounds per square inch, the time of decom-

pression shall be two minutes; when pressure is over fifteen pounds per square inch, but does not exceed twenty pounds per square inch, the time of the decompression shall be five minutes; when pressure is over twenty pounds per square inch, but does not exceed twenty-five pounds per square inch, the time of decompression shall be ten minutes; when pressure is over twenty-five pounds per square inch but does not exceed thirty pounds per square inch, the time of decompression shall be twelve minutes; when pressure is over thirty pounds per square inch, but does not exceed thirty-six pounds per square inch, the time of decompression shall be fifteen minutes; when pressure is over thirty-six pounds per square inch, but does not exceed forty pounds per square inch, the time of decompression shall be twenty minutes; when pressure is over forty pounds per square inch, but does not exceed fifty pounds per square inch, the time of decompression shall be twenty-five minutes.

All necessary instruments shall be attached to all caissons and air locks showing the actual air pressure to which men employed therein are subjected and which instruments shall be accessible to and in charge of a competent person who shall not be employed more than eight hours in any twenty-four hours. [*Added by L. 1909, ch. 291; am'd by L. 1912, ch. 219; and L. 1913, ch. 528.*]

§ 134-b. Medical attendance and regulations.—Any person or corporation carrying on any tunnel, caisson or other work in the prosecution of which men are employed or permitted to work in compressed air, shall, while such men are so employed, also employ and keep in employment, one or more duly qualified persons to act as medical officer or officers who shall be in attendance at all necessary times while such work is in progress and whose duty it shall be to administer and strictly enforce the following:

(a) No person shall be permitted to work in compressed air until after he shall have been examined by such medical officer and reported by such officer to the person in charge thereof as found to be qualified, physically, to engage in such work.

(b) In the event of absence from work, by an employee for ten or more successive days for any cause, he shall not resume work until he shall have been re-examined by the medical officer and his physical condition reported as hitherto provided to be such as to permit him to work in compressed air.

(c) No person known to be addicted to the excessive use of intoxicants shall be permitted to work in compressed air.

(d) No person not having previously worked in compressed air shall be permitted during the first twenty-four hours of his employment to work for longer than one-half of a day period as provided in section one hundred and thirty-four-a and after so working shall be re-examined and not permitted to work in a place where the pressure is in excess of fifteen pounds unless his physical condition be reported by the medical officer as heretofore provided to be such as to qualify him for such work. [*Subd. (d) am'd by L. 1912, ch. 219.*]

(e) After a person has been employed continuously in compressed air for a period of three months he shall be re-examined by the medical officer and he shall not be allowed, permitted or compelled to work until such examination has been made and he has been reported as heretofore provided as physically qualified to engage in compressed air work.

(f) The said medical officer shall at all times keep a complete and full record of examinations made by him, which record shall contain dates on which examinations were made and a clear and full description of the person examined, his age and physical condition at the time examined, also the statement as to the time such person has been engaged in like employment.

(g) Properly heated, lighted and ventilated dressing rooms shall be provided for all employees in compressed air which shall contain lockers and benches and shall be open and accessible to the men during the intermission between shifts. Such rooms shall be provided with baths, with hot and cold water service and a proper and sanitary toilet.

(h) A medical lock shall be established and maintained in connection with all work in compressed air when the maximum pressure exceeds seventeen pounds as herein provided. Such lock shall be kept properly heated, lighted and ventilated and shall contain proper medical and surgical equipment. Such lock shall be in charge of a certified trained nurse selected by the medical officer, who shall be qualified to render temporary relief. [*Subd. (h) am'd by L. 1912, ch. 219; L. 1913, ch. 528.*]

The "certified trained nurse" required by subdivision h means a "registered" nurse as described in § 250 of the Public Health Law: Opinion of Attorney-General, October 29, 1912.

(i) Whenever in the prosecution of caisson work in which compressed air is employed the working chamber is less than ten feet in length and when such caissons are at any time suspended or hung while work is in progress so that the bottom of the excavation is more than nine feet below the deck of the working chamber, a shield shall be erected in the working chamber for the protection of the workmen. [*Subd. (i) added by L. 1915, ch. 528.*]

(j) Whenever in the prosecution of work in which compressed air is employed a shaft is used, all such shafts shall be provided with a safe, proper and suitable ladder for its entire length. [*Subd. (j) added by L. 1913, ch. 528.*]

(k) Wherever in the prosecution of work in tunnels, caissons or other apparatus or means, in which compressed air is employed or used, lights other than electric lights are used, the said lights shall at all times be guarded. [*Subd. (k) added by L. 1913, ch. 528.*]

(l) All passage ways in work, wherein compressed air is employed or used, shall be kept clean and properly lighted. [*Subd. (l) added by L. 1913, ch. 528. Section 134-b added by L. 1909, ch. 291; am'd by L. 1912, ch. 219; and L. 1913, ch. 528.*]

§ 134-c. Penalties.—Every person who, or corporation which, shall violate or fail to comply with any of the foregoing provisions shall be guilty of a misdemeanor which shall be punishable by a fine of not less than two hundred and fifty dollars or imprisonment for one year or both. [*Added by L. 1909, ch. 291.*]

§ 134-d. All work in the prosecution of which tunnels, caissons or other apparatus or means within which compressed air is employed* shall have at least two air pipes or lines connected at all times and in perfect working condition. [*Added by L. 1912, ch. 219.*]

* The words "are used" are not in original but should evidently be supplied.

§ 134-e. Wherever electricity is used as lighting apparatus the light supplied for the shaft leading to the caisson or tunnel or other apparatus wherein the men are actually at work shall be supplied from a different wire from the lights which are located at the point wherein the men are actually working under air. *[Added by L. 1912, ch. 219.]*

§ 135. Enforcement of article.—The commissioner of labor may serve a written notice upon the owner, agent, manager or lessee of a mine or tunnel requiring him to comply with a specified provision of this article. The commissioner of labor shall begin an action in the supreme court to enforce compliance with such provision; and upon such notice as the court directs an order may be granted, restraining the working of such mine or tunnel during such time as may be therein specified.

§ 136. Admission of inspectors to mines and tunnels.—The owner, agent, manager or lessee of a mine or tunnel, at any time, either day or night, shall admit to such mine or tunnel, or any building used in the operation thereof, the commissioner of labor or any qualified person duly authorized by him, for the purpose of making the examinations and inspections necessary for the enforcement of this article, and shall render any necessary assistance for such inspections.

RULES AND REGULATIONS PRESCRIBED BY THE COMMISSIONER OF LABOR

[By authority of §§ 120 and 125, above]
FOR MINES AND QUARRIES

[The rules are now (July, 1915), under revision by the Industrial Commission]

Superintendent.—1. The superintendent of a mine or quarry shall pay particular attention to discipline. All inspections shall be reported to him. He shall see that all the provisions of the law and of these rules are enforced in such mine or quarry. He shall watch all work done by contractors to see that they comply with the law and these rules.

Daily inspection.—2. The superintendent shall designate a competent person, who shall each day make an inspection of all mining appliances, or quarrying appliances, boilers, engines, magazines, shafts, shafthouses, underground workings, roofs, pillars, timbers, explosives, bell-ropes, telephones, operating tubes, tracks, ladders, etc., and report any defects to the superintendent, in writing, at once.

Boilers.—3. Superintendents shall require a strict compliance with § 124 of the Labor Law regarding boiler inspection. Boilers shall be examined daily, and any imperfections reported to the master mechanic or superintendent at once.

Timbering.—4. Timber shall be of ample size and strength and shall be used freely and wherever there is any chance of danger. Only new or properly seasoned timber shall be used, and shall be inspected carefully for rot or other defects before using and periodically thereafter.

Air.—5. The use of air instead of steam for drilling in all underground workings is advised.

Signals.—6. Special attention shall be given to the matter of signals and to keeping the appliances therefor in order. The bell line shall be of ample strength and kept free and clear of all rock and timbers. Shafts of 400 feet or over shall have speaking tubes or telephones from the foot of the shaft to the engine-room. A code of signals shall be posted at different parts of the workings and particularly at the shafthead, together with a notice of a penalty for wrong signals. Wrong signals should be severely punished.

Ladderways.—7. Ladders shall be strong and intact. In vertical shafts and in deep, pitching inclines there should be landings not more than twenty feet apart, and closely covered except a hole large enough for a man to pass to the next ladder. In inclines, there shall be a hand-rail attached to the ladder, and wherever possible steps should be used with hand-rail attached.

The shaft.—8. The shafthead shall be covered and guarded so as to prevent accidents from persons falling into it, or from foreign objects dropping down. Automatic doors should, in most cases, be used. The manway shall be around and not across the shafthead. The timbering of the shaft shall be sounded and examined often, as it decays rapidly under certain conditions. Inside shafts, winzes, and chutes shall be carefully guarded. When sinking or continuing a shaft below levels where the work of mining is being carried on, the collars at the lower level shall be covered to prevent objects from falling down the shaft, and such covering should be composed of timber not less than four inches in thickness; and where a cage is used a bonnet shall be placed over it.

Hoisting engineers.—9. Superintendents shall use extraordinary care to see that their engineers are mentally and physically qualified for their positions. Where persons are lowered into or hoisted out of a mine or quarry, engineers shall be not less than 21, otherwise not less than 18 years of age. They shall never delegate the control of the machinery to any other person, and no one shall interfere with them in their duties.

10. The hoisting engineer shall be in constant attendance at his engine or boilers whenever there are workmen underground.

11. The engineer shall not permit any one to enter or loiter in the engine-room except those required by their positions or duties to do so, and he shall hold no conversation with any one while the engine is in motion or while his attention should be occupied with signals. A notice to that effect shall be posted on the door of the engine house.

12. The engineer must thoroughly understand the code of signals, which must be delivered in the engine room in a clear and unmistakable manner; and when he receives a signal that men are in the cage or carriage he must work his engine with extra care and only at a moderate rate of speed.

13. The engineer or some other specifically designated and properly qualified employee must keep a careful watch over the engine, boilers, pumps, ropes and winding apparatus, and see that boilers are supplied with water, cleaned and inspected at frequent intervals and that the steam pressure does not exceed the prescribed limit; and he shall frequently try the safety valves and shall not increase the weights thereon. He shall see that the steam and water gauges are always in good order, and if any of the pumps, valves or gauges become deranged, he shall promptly report the facts to his superiors.

Hoisting machinery.—14. Machinery used for lowering or raising employees into or out of mines, and stairs and ladders for ingress and egress shall be kept in a safe condition and inspected each twenty-four hours by a competent person especially designated for that purpose.

15. The operator, or superintendent shall provide and maintain from the top to the bottom of every shaft where persons are raised or lowered, a telephone or a metal tube suitably adapted to the free passage of sound, through which conversation may be held between persons at the top and bottom of said shaft, and also other means of signaling from the top to the bottom thereof, and shall provide every cage or gear carriage used for hoisting or lowering persons with a proper safety catch and with a sufficient overhead covering to protect them while using it. And he shall see that the flanges, with a clearance of not less than four inches where the whole of the rope is wound on the drum, are attached to the side of the drum of every machine that is used for lowering and hoisting persons; that adequate brakes are attached to the drum, and that safety gates are so placed at all shafts as to prevent persons from falling in.

16. The main governing chain attached to the socket of the wire rope shall be made of the best quality of iron and shall be properly tested; and the bridle

chain shall be attached to the hoisting rope above the socket from the top cross-piece of the carriage or cage so that no single chain shall be used for lowering or hoisting persons.

17. No greater number of persons shall be lowered or hoisted at any one time than may be allowed by the commissioner of labor; and notice of the maximum number allowed to be lowered or hoisted at any one time shall be kept posted in a conspicuous place at the top of the shaft.

Dangerous machinery.—18. All machinery about mines or quarries, in connection with which accidents are liable to occur, shall be suitably guarded or railed off.

Fire.—19. All oil, waste, candles, etc., shall be stored at a safe distance from the boiler-house, engine-room and shafthouse, and a quantity of water shall be stored at such place to guard against fire. All shafthouses shall have ample fire protection, and the appliances shall be kept in condition for instant use. All mining plants using steam should have a hose attached to the injector or feed pipe for use in case of fire.

Storing explosives.—20. All explosives shall be stored in a magazine provided for that purpose, and located far enough from the working-shaft, slope, tunnel or quarry, boiler-house or engine-room, so that in case the whole quantity should be exploded, there would be no danger, and all explosives in excess of what are needed for one shift shall be kept in the magazine. Such magazine should be fireproof, and so constructed that a modern rifle or pistol bullet cannot penetrate it. The thawing should be done by the hot water or steam bath method; the use of dry heat is absolutely prohibited. A receptacle for carrying explosives shall be provided. Exploders and powder shall not be kept in the same room. A suitable place separated from mine or quarry, boilers or engine-room shall be provided for preparing charges. One man shall have full charge of the magazine. (See further the special rules for handling dynamite.)

Blasting.—21. All blasting shall be done by one man and his helper, designated by the superintendent for that purpose. After blasting no one else shall be allowed in that part of the mine or quarry until the blaster has made a personal examination and pronounced "all over." If a blast misses fire, no one except the blaster and his helper shall be allowed in that part of the mine or quarry less than three hours thereafter unless and until the blaster has made a personal examination and pronounced "all safe." No person shall use or handle any explosives who is addicted to the use of intoxicants. All tamping of high explosives shall be done with a wooden bar. Timely and sufficient warning shall be given when a blast is about to be fired.

Posting of law, etc.—A copy of Article IX of the Labor Law and of all rules relating to health and safety of employees in mines and quarries, prescribed by the commissioner of labor, shall be kept posted in the works in such manner as to be available to all employees.

FOR STORING, KEEPING, MOVING, THAWING, CHARGING AND FIRING DYNAMITE

[The rules are now (July, 1915), under revision by the Industrial Commission]

Storing and keeping.—1. Dynamite must be stored in a building separate and isolated from other buildings and from traffic. Caps and electric exploders and fuses must never be stored in the *same* building with the powder, but must always be kept apart until needed for preparing the charge.

Moving.—2. When dynamite is hauled in wagons, railway trains, mine cars or similar vehicles, the *greatest* care must be exercised, and neither percussion caps, exploders, fulminators, friction matches nor any other article of like nature shall be loaded or carried in the same wagon, car or vehicle.

Thawing powder.—3. All nitro-glycerine compounds freeze and become hard at about 42 degrees Fahrenheit, in which condition they will not readily explode. When large quantities are to be used, a separate building for thawing should be fitted with a small steam radiator. Use only exhaust steam for heating it, if

possible keeping the temperature of the room at about 80 degrees Fahrenheit. In the part of the room farthest from the radiator, place the powder on racks to thaw. When but small quantities need to be thawed, a thawing kettle may be used, being two water-tight kettles (one smaller and placed inside the other), the cartridges placed in the smaller kettle, the space between the two kettles filled with hot water of from 120 to 130 degrees Fahrenheit, and the kettle fitted with a cover to retain the heat. Never place the kettle over the fire to heat. When more hot water is required, empty and fill again with hot water. Never attempt to thaw the powder by placing it in hot water or exposing it to the direct action of steam.

Precautions.—4. Powder must *never* be placed on, in or near hot steam pipes, steam boilers, a hot stove, nor any hot metal, nor exposed to radiated heat from a fire or hot stove. Never roast, toast or bake it in any way, nor take it near a blacksmith forge. Never allow *smoking* or fire of any description, nor leave any loose caps or fuse near it.

Preparing the charge.—5. Cut a piece of safety fuse to the right length and carefully insert the fresh cut end in a blasting cap. See that the cap is free from any particle of sawdust before inserting the fuse. Press the fuse gently into the cap as far as it will go. Crimp the open end of the cap tightly around the fuse with a pair of cap-nippers, but under no condition disturb the fulminate or filling in the cap. Then open one end of the cartridge carefully, and with a sharpened lead pencil or pointed wooden stick, make a hole in the powder, insert the capped end of the fuse, being careful to see that at least one-fourth of an inch of the cap remains out of the powder. Then draw the paper closely about the fuse and tie in with a strong cord.

Charging the drill-hole.—6. Having properly prepared the cartridges (being sure that none are frozen) push them gently to the bottom of the drilled hole with a wooden stick, putting the capped cartridge on top.

Tamping.—7. Having placed the required quantity of powder in the hole, cover with six or eight inches of loose tamping, press it down firmly with a *wooden* stick, after which the hole may be tamped to the top, ramming the tamping down hard. Never use an iron or metal bar. Wood is always sufficient.

Misfire.—8. In case of misfires, never attempt to remove the tamping or draw the charge; always drill a new hole.

FOR THE DAILY GUIDANCE OF EMPLOYEES

1. No employee shall ride on any loaded skip, car, cage or bucket nor walk up or down any slope, or shaft, while any skip, car, cage or bucket is above.

2. The pit boss shall carefully examine the hanging wall of all slopes, levels and working chambers daily.

3. Machine runners shall carefully examine and sound hanging wall at face working, and remove all loose rock or ore before proceeding to drill.

4. No employee shall handle any explosives nor do any blasting except the person or persons designated for that special purpose by the superintendent.

5. After blasting no one except the blaster or blasters shall be allowed in the part of the mine where such blast has been fired, until the blaster has made a personal examination, and pronounced all safe.

6. No iron or steel bar, unless tipped with six inches of copper or other soft metal, shall be used for tamping any explosive. When tamping dynamite, or other high explosives, wood only shall be used.

7. The mine superintendent or person designated by him shall examine daily all mining appliances and see that they are in safe condition.

8. Whenever a shot misses fire no one shall be allowed to return to that part of the mine or quarry in less than three hours, unless and until the blaster after a personal examination shall pronounce all safe.

9. No person addicted to the use of intoxicating drink shall have charge of any explosives, boiler, engine or hoist, nor shall any person be allowed in any part of the mine or quarry while under the influence of liquor.

FOR THE CONSTRUCTION OF TUNNELS

1. Whenever work in the construction of a tunnel or section thereof is in progress, there shall always be present some one competent person, representing the person, firm or corporation carrying on the work or the contractor for the particular section or subdivision thereof, who shall be in all respects responsible for full compliance therein with all provisions of law, and who for that purpose shall have authority to require all persons employed on the work to comply with such provisions.

2. In every tunnel or section thereof while under construction there shall be a competent person designated to make a regular inspection at least once every working day and to examine all engines, boilers, steam pipes, drills, air pipes, air gauges, air locks, dynamos, electric wiring, signaling apparatus, brakes, cages, buckets, holsts, cables, ropes, chains, ladders, ways, tracks, sides, roofs, timbers, supports and all apparatus and appliances; and he shall immediately upon discovery report any defect, in writing, to the person present in charge.

3. The person present in charge of the work in any tunnel or section thereof shall always be authorized and instructed in case of accidents to take all proper measures for the relief of all workmen injured therein. And he shall immediately report every such accident to the commissioner of labor in accordance with § 126 of the Labor Law.

4. Wherever possible all explosives shall be stored in a fire-proof magazine at a safe distance from the tunnel, its engines, power plant and machinery and from other buildings and traffic, and a place separate from the place of storage and with proper apparatus shall be provided for thawing dynamite or other high explosives if thawing be necessary. Where compliance with any of these provisions be impossible, only the safest and most approved manner and methods of handling and storing such explosives practicable under the circumstances, may be used instead; and then only under the regular direction and supervision of some competent engineer or superintendent of experience who shall be held responsible therefor. And the quantity of such high explosives shall always be limited according to law and local ordinances and the strictest demands of safety. In no tunnel shall more explosives be stored than are required for a single blast or one round of holes in the working face; unless the chief engineer shall certify in writing that for special and peculiar reasons it is safer or absolutely necessary to do otherwise, which certificate shall prescribe the limits to the amount of explosives to be allowed in the tunnel at any one time and shall be kept posted in a conspicuous place with the other rules hereinafter mentioned.

5. Only such persons as are selected and regularly designated by a competent engineer or superintendent of experience shall handle or transport the dynamite or other high explosives used in the construction of any tunnel; and extraordinary care shall be exercised in selecting therefor only such persons as are competent, careful and of good habits as to the use of liquor, and to see that they store, prepare, handle and transport all such explosives in the safest and most careful manner.

6. Only such persons as have been selected and regularly designated therefor by a competent engineer or superintendent of experience shall be allowed to prepare or set off blasts in any tunnel under construction, and extraordinary care shall be exercised in selecting therefor only such persons as are competent, experienced and of good habits as to the use of liquor. The person present in charge of the work in any tunnel or section thereof shall see to it that whenever blasting is in progress there is always one "blaster" in full charge in each section or in each separated heading therein, that his fellow workmen properly obey his orders and directions, that he personally supervises the fixing of all charges, the discharge of all blasts, etc., and that he does so carefully, in the safest manner and in accordance with the provisions of § 125 of the Labor Law.

7. Any code of signals in use in a tunnel under construction shall be explained in writing, and copies thereof, in such languages as may be necessary to be

understood by all persons affected thereby, shall be kept posted in a conspicuous place near each entrance to such tunnel and in such other places as may be necessary to bring them to the attention of all such persons.

8. Copies of §§ 123, 125, 134-a and 134-b of the Labor Law, of the substance of the foregoing rules and of the working rules of the particular tunnel, in such languages as may be necessary to be understood by all persons working therein, shall be kept posted in a conspicuous place near each entrance to every tunnel

FOR WORK OF EXCAVATION AND CONSTRUCTION OF TUNNELS CARRIED ON IN COMPRESSED AIR.—SUPPLEMENTING §§ 134-a and 134-b

LOCKS

Where practicable each bulkhead in the tunnel shall have at least two locks in perfect working condition.

The man lock shall be large enough so that those using it are not compelled to be in a cramped position.

The emergency lock shall be large enough to hold an entire heading shift.

Every lock must be lighted by electricity and shall contain a pressure gauge and a timepiece, and shall have a glass "bull's-eye" in each door or in each end.

Valves must be so arranged that the locks can be operated both from within and from without.

Each man lock shall be in charge of a competent lock tender.

LIGHT, SANITATION AND VENTILATION IN AIR CHAMBER

All lighting in compressed air chambers shall be by electricity only, except in cases of emergency.

Absolutely no nuisance shall be tolerated in the air chamber, and smoking shall be strictly prohibited.

No animals for hauling shall be permitted in the air chambers.

An air-supply pipe shall be carried as near to the face as may be practicable and necessary. The air shall be analyzed at least once in every forty-eight hours, and the percentage of CO₂ shall not be greater than 1/10 of one per cent above that of the air being compressed.

The exhaust valves shall be operated at certain intervals, especially after a blast, and men shall not be required to resume work after a blast until the gas and smoke have cleared sufficiently.

Persons in the air chamber must be able to communicate with the powerhouse on the surface by means of suitable devices at all times.

GAUGES

In addition to the gauges in the locks, an accurate gauge shall be maintained on the outer side of each bulkhead. These gauges shall be accessible at all times and shall be kept in accurate working order.

SAFETY SCREENS

Where practicable, safety screens shall be installed after the heading has proceeded beyond the bulkhead line.

GENERAL

A record of all men working in the air chambers shall be kept by a special man who shall remain outside the lock near the entrance. This record shall show the period of stay in the air chamber of each person and the time taken for decompression.

A liberal supply of hot coffee and sugar shall be supplied to men working in compressed air. Coffee must be heated by means other than direct steam.

ARTICLE 10

Bureau of Mediation and Arbitration

Section 140. Chief mediator.

- 141. Mediation and investigation.
- 142. Board of mediation and arbitration.
- 143. Arbitration by the board.
- 144. Decisions of board.
- 145. Annual report.
- 146. Submission of controversies to local arbitrators.
- 147. Consent; oath; powers of arbitrators.
- 148. Decision of arbitrators.

§ 140. Chief mediator.—There shall continue to be a bureau of mediation and arbitration. The second deputy commissioner of labor shall be the chief mediator of the state and in immediate charge of this bureau, but subject to the supervision and direction of the commissioner of labor.

Compare § 42, *ante*.

§ 141. Mediation and investigation.—Whenever a strike or lockout occurs or is seriously threatened an officer or agent of the bureau of mediation and arbitration shall, if practicable, proceed promptly to the locality thereof and endeavor by mediation to effect an amicable settlement of the controversy. If the commissioner of labor deems it advisable the board of mediation and arbitration may proceed to the locality and inquire into the cause thereof, and for that purpose shall have all the powers conferred upon it in the case of a controversy submitted to it for arbitration.

§ 142. Board of mediation and arbitration.—There shall continue to be a state board of mediation and arbitration, which shall consist of the chief mediator and two other officers of the department of labor to be from time to time designated by the commissioner of labor. The chief mediator when present shall be the chairman of the board. Two members of such board shall constitute a quorum for the transaction of business, and may hold meetings at any time or place within the state. Examinations or investigations ordered by the board may be held and taken by and before any of their number, if so directed, but a decision rendered in such a case shall not be deemed conclusive until approved by the board.

§ 143. Arbitration by the board.—A grievance or dispute between an employer and his employees may be submitted to the board of arbitration and mediation for their determination and settlement. Such submission shall be in writing, and contain a statement in detail of the grievance or dispute and the cause thereof, and also an agreement to abide the determination of the board, and during the investigation to continue in business or at work, without a lockout or strike. Upon such submission, the board shall examine the matter in controversy. For the purpose of such inquiry they may subpoena witnesses, compel their attendance, take and hear testimony, and call for and examine books, papers and documents of any parties to the controversy. Subpoenas shall be issued by the chairman under the seal of the department of labor. Witnesses shall be allowed the same fees as in courts of record. The decision of the board must be rendered within ten days after the completion of the investigation.

§ 144. **Decisions of board.**—Within ten days after the completion of every arbitration, the board or a majority thereof shall render a decision, stating such details as will clearly show the nature of the controversy and the points disposed of by them, and make a written report of their findings of fact and of their recommendations to each party of the controversy. Every decision and report shall be filed in the office of the board and a copy thereof served upon each party to the controversy.

§ 145. **Annual report.**—The commissioner of labor shall make an annual report to the legislature of the operations of this bureau.

§ 146. **Submission of controversies to local arbitrators.**—A grievance or dispute between an employer and his employees may be submitted to a board of arbitrators, consisting of three persons, for hearing and settlement. When the employees concerned are members in good standing of a labor organization, one arbitrator may be appointed by such organization and one by the employer. The two so designated shall appoint a third, who shall be chairman of the board. If such employees are not members of a labor organization, a majority thereof at a meeting duly called for that purpose, may designate one arbitrator for such board.

§ 147. **Consent; oath; powers of arbitrators.**—Before entering upon his duties, each arbitrator so selected shall sign a consent to act and take and subscribe an oath to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be filed in the clerk's office of the county or counties where the controversy arose. When such board is ready for the transaction of business, it shall select one of its members to act as secretary, and notice of the time and place of hearing shall be given to the parties to the controversy. The board may, through its chairman, subpoena witnesses, compel their attendance and take and hear testimony. The board may make and enforce rules for its government and the transaction of the business before it, and fix its sessions and adjournments.

§ 148. **Decision of arbitrators.**—The board shall, within ten days after the close of the hearing, render a written decision signed by them giving such details as clearly show the nature of the controversy and the questions decided by them. One copy of the decision shall be filed in the office of the clerk of the county or counties where the controversy arose and one copy shall be transmitted to the bureau of mediation and arbitration.

ARTICLE 11

[Added by L. 1910, ch. 514, formerly art. 10-a; renumbered by L. 1918, ch. 145]

Bureau of Industries and Immigration

Section 151. Bureau of industries and immigration.

152. Special investigators.

153. General powers and duties.

154. Proceedings before the commissioner of labor.

155. Registration and reports of employment agencies.

156. The licensing and regulation of immigrant lodging places.

156-a. Reports.

§ 151. Bureau of industries and immigration.—There shall be a bureau of industries and immigration, which shall be under the immediate charge of a chief investigator, but subject to the supervision and direction of the commissioner of labor.

Compare § 42, *ante*.

§ 152. Special investigators.—The commissioner of labor may appoint from time to time such number of special investigators and such other assistants as may be necessary to carry into effect the powers of the said bureau herein defined, who may be removed by him at any time. The special investigators may be divided into two grades. Each special investigator of the first grade shall receive an annual salary of fifteen hundred dollars, and each of the second grade an annual salary of twelve hundred dollars. [As am'd by L. 1912, ch. 543.]

§ 153. General powers and duties.—1. The commissioner of labor shall have the power to make full inquiry, examination and investigation into the condition, welfare and industrial opportunities of all aliens arriving and being within the state. He shall also have power to collect information with respect to the need and demand for labor by the several agricultural, industrial and other productive activities, including public works throughout the state; to gather information with respect to the supply of labor afforded by such aliens as shall from time to time arrive or be within the state; to ascertain the occupations for which such aliens shall be best adapted, and to bring about intercommunication between them and the several activities requiring labor which will best promote their respective needs; to investigate and determine the genuineness of any application for labor that may be received and the treatment accorded to those for whom employment shall be secured; to co-operate with the employment and immigration bureaus conducted under authority of the federal government, or by the government of any other state, and with public and philanthropic agencies designed to aid in the distribution and employment of labor; and to devise and carry out such other suitable methods as will tend to prevent or relieve congestion and obviate unemployment.

2. The commissioner of labor shall procure with the consent of the federal authorities complete lists giving the names, ages, and destination within the state of all alien children of school age, and such other facts as will tend to identify them and shall forthwith deliver copies of such lists to the commissioner of education or the several boards of education and school

boards in the respective localities within the state to which said children shall be destined, to aid in the enforcement of the provisions of the education law relative to the compulsory attendance at school of children of school age.

3. The commissioner of labor shall further co-operate with the commissioner of education and with the several boards of education and school commissioners in the state to ascertain the necessity for and the extent to which instruction should be imparted to aliens within the state; to devise methods for the proper instruction of adult and minor aliens in the English language and other subjects, and in respect to the duties and rights of citizenship and the fundamental principles of the American system of government; and may establish and supervise classes and otherwise further their education. [*Subd. 3 am'd by L. 1912, ch. 543.*]

4. The commissioner of labor may enter and inspect all labor camps within the state, and any camp which he may have reasonable cause to believe is a labor camp; and shall inspect all employment and contract labor agencies dealing with aliens, or whenever he may have reasonable cause to believe that such employment or contract labor agencies deal with aliens; or who secure or negotiate contracts for their employment within the state; shall inspect all immigrant lodging places or all places where he has reasonable cause to believe that aliens are received, lodged, boarded or harbored; shall co-operate with other public authorities, to enforce all laws applicable to private bankers dealing with aliens and laborers; secure information with respect to such aliens who shall be in prisons, almshouses and insane asylums of the state, and who shall be deportable under the laws of the United States, and co-operate with the federal authorities and with such officials of the state having jurisdiction over such criminals, paupers and insane aliens who shall be confined as aforesaid, so as to facilitate the deportation of such persons as shall come within the provisions of the aforesaid laws of the United States, relating to deportation; shall investigate and inspect institutions established for the temporary shelter and care of aliens, and such philanthropic societies as shall be organized for the purpose of securing employment for or aiding in the distribution of aliens, and the methods by which they are conducted. [*Subd. 4 am'd by L. 1912, ch. 543.*]

Private bankers are governed by the Banking Law, as revised and re-enacted by L. 1914, ch. 369; compare especially §§ 2, 21-50, 56-83, 150-172, thereof.

5. The commissioner of labor shall investigate conditions prevailing at the various places where aliens are landed within this state, and at the several docks, ferries, railway stations and on trains and boats therein, and in co-operation with the proper authorities, afford them protection against frauds, crimes and exploitation; shall investigate any and all complaints with respect to frauds, extortion, incompetency and improper practices by notaries public, interpreters and other public officials, or by any other person or by any corporation, whether public or private, and present to the proper authorities the results of such investigation for action thereon; shall investigate and study the general social conditions of aliens within this state,

for the purpose of inducing remedial action by the various agencies of the state possessing the requisite jurisdiction; and shall generally, in conjunction with existing public and private agencies, consider and devise means to promote the welfare of the state. [*Subd. 5 am'd by L. 1912, ch. 543.*]

Improper practices by notaries public are punishable under the Penal Law, § 1820-a. Transportation tickets to and from foreign countries are protected by the General Business Law, §§ 150-154, and by the Penal Law, §§ 1563-1565, 1572.

§ 154. Proceedings before the commissioner of labor.— Any investigation, inquiry or hearing which the commissioner of labor has power to undertake or to hold may by special authorization from the commissioner of labor, be undertaken or held by or before the chief investigator, or any official whom he may designate, and any decision rendered on such investigation, inquiry or hearing, when approved, and confirmed by the commissioner and ordered filed in his office, shall be and be deemed to be the order of the commissioner. All hearings before the commissioner or chief investigator or official duly designated therefor shall be governed by rules to be adopted and prescribed by the commissioner. The commissioner or chief investigator or official duly designated therefor shall not be bound by technical rules of evidence, and shall have the power to subpoena any witness or any person, and to examine all books, contracts, records and documents of any person or corporation and by subpoena duces tecum to compel production thereof, and to effect as far as practicable an amicable settlement or adjustment of any such complaint. Such subpoena shall be issued by the commissioner or chief investigator under the seal of the department of labor. No person shall be excused from testifying or from producing any books or papers on any investigation or inquiry by or upon any hearing before the commissioner or chief investigator, or official duly designated thereof,* when ordered to do so, upon the ground that the testimony or evidence, books or documents required of him may tend to incriminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted, punished or subjected to any penalty or forfeiture, for or on account of any act, transaction, matter or thing, concerning which he shall under oath have testified or produced documentary evidence; provided, however, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony. [*As am'd by L. 1912, ch. 543.*]

§ 155. Registration and reports of employment agencies.— The term "employment agency" as used in this act shall include any person, firm, corporation or association regularly engaging in the business of negotiating labor contracts or of receiving applications for help or labor, or for places or positions, excepting such as shall conduct agencies exclusively for procuring employment for teachers, for incumbents of technical, clerical or executive positions, for vaudeville or theatrical performers, musicians or nurses, and also excepting bureaus conducted by registered agricultural or medical institutions, and, excepting also departments maintained by persons, firms, corporations or associations for the purpose of securing help for themselves where no fee is charged the applicant for employment. All employment agencies

* So in original.

other than those herein excepted shall on or before the first day of October, nineteen hundred and ten, and annually thereafter, file with the commissioner of labor a statement containing the name of the person, firm, corporation or association conducting such agency, the street and number of the place where the same shall be conducted and showing whether said agency is licensed or unlicensed, and if licensed, specifying the date and duration of the license, by whom granted and the number thereof. Such statements shall be registered by the commissioner. Every such employment agency shall keep in the office thereof a full record of the country of the birth of those for whom places or positions are secured, their length of residence in this country, and the name and address of the person, firm or corporation to whom the persons for whom such places or positions are secured shall be sent, the occupation for which employment shall be secured, and the compensation to be paid to the person employed. The books and records of every such agency shall at all reasonable hours be subject to examination by the commissioner of labor. Any person who shall fail to register with the commissioner of labor or to keep books or records shall be guilty of a misdemeanor and shall be punishable for the first offense by a fine of not less than ten dollars, nor more than twenty-five dollars, and for every subsequent offense by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

See also § 66-p of Labor Law, *ante*; § 179 of General Business Law, p. 347, *post*.

§ 156. The licensing and regulation of immigrant lodging places.—1. No person shall hereafter, directly or indirectly, own, conduct or keep an immigrant lodging place without having first obtained from the commissioner of labor a license therefor. Before receiving such license the applicant therefor shall file with the commissioner of labor, in such form as he may prescribe, a statement certified by such applicant, or if said applicant is a corporation, by one of its officers, designating the location of the immigrant lodging place for which a license shall be requested, and specifying the number of boarders or lodgers received by said applicant at any one time during the year preceding such application at the place for which a license is sought, or if no business shall have previously been conducted at said place the maximum number of boarders or lodgers which it will accommodate. With such application there shall be presented to the commissioner of labor proof of the good moral character of the applicant, and in case such applicant is a corporation, of its officers, and in addition thereto *[, in the discretion of the commissioner of labor,] a bond to the people of the state of New York, with two or more sureties or of a surety company approved by the commissioner of labor, conditioned that the obligor shall obey all laws, rules and regulations applicable to such immigrant lodging place prescribed by any lawful authority, and that such obligor shall discharge all obligations and pay all damages, loss and injuries which shall accrue to any person or persons dealing with such licensee, by reason

* This phrase was inserted by L. 1912, ch. 387, approved April 15, but was not included in the amendment made by L. 1912, ch. 543, approved April 19. According to the general rule of construction that the latest amendatory act supersedes prior ones, the courts would probably hold that the above phrase is not a part of the law.

of any contract or other obligation of such licensee, or resulting from any fraud or deceit, conversion of property, oppression, excessive charges, or other wrongful act of said licensee or of his servants or agents in connection with the business so licensed. Where the number of boarders or lodgers specified in said application shall not exceed ten persons the penalty of said bond shall be one hundred dollars, where it shall be more than ten and less than fifty persons it shall be two hundred and fifty dollars, and where the number shall be more than fifty it shall be five hundred dollars. Any person aggrieved may bring an action for the enforcement of such bond in any court of competent jurisdiction. On the approval of the application for said license and of the bond filed therewith the commissioner of labor shall issue a license authorizing the applicant to own, conduct and manage an immigrant lodging place at the place designated in the application and to be specified in the license certificate. For such license the applicant shall pay to the commissioner of labor a fee of five dollars where the number of boarders or lodgers stated in the application does not exceed ten, a fee of ten dollars where such number exceeds ten and does not exceed fifty, and a fee of twenty-five dollars where such number exceeds fifty. Such license shall not be transferable without the consent of the commissioner of labor, nor authorize the conduct of an immigrant lodging place on any other premises than those described in the application. Such license shall be renewable annually on the payment of a fee based on the maximum number of boarders and lodgers received by the licensee at the place licensed during the preceding year, as shown in a sworn statement filed by such applicant in such form as the commissioner of labor shall prescribe. The commissioner of labor shall keep a book or books in which the licenses granted and the bonds filed shall be entered in alphabetical order, together with a statement of the date of the issuance of the license, the name or names of the principals, the place where the business licensed is to be transacted, the names of the sureties upon the bond filed and the amount of the license fee paid by the licensee. [*Subd. 1 am'd by L. 1912, ch. 543.*]

2. Every licensee shall keep conspicuously posted in the public rooms and in each bedroom of the place licensed a statement printed in the English language and in the language understood by the majority of the patrons of said place, specifying the rate of charges by the day and week for lodging, for meals supplied, for the transportation of passengers and baggage, the services of guides, and other service rendered to such patrons. No sum shall be charged or received by or for the licensee in excess of such posted rates for any service rendered, and payment shall not be enforceable for any charge in excess of such rates. A copy of the rates so posted shall be filed by the licensee with the commissioner of labor, and no increased rate shall be charged or received until a revised schedule showing such increase shall have been filed with the commissioner of labor. Every such licensee shall likewise file with the commissioner of labor a list specifying the names and addresses of every person employed by such licensee as a runner, guide or other employee, and showing whether such person is employed at a salary or on commission.

3. A license granted hereunder shall be revocable by the commissioner of labor on notice to the licensee and for cause shown.

4. The term immigrant lodging place as used in this section includes any place, boarding house, lodging house, inn or hotel where immigrants or emigrants while in transit, or aliens are received, lodged, boarded or harbored, which shall not include any place maintained or conducted by a charitable, philanthropic or religious society, association or corporation. Nothing contained herein shall be held to apply to temporary sleeping quarters in labor or construction camps.

5. Any person or any officer of a corporation owning, conducting or managing an immigrant lodging place without having obtained from the commissioner of labor a license therefor, or who shall carry on such business after the revocation of a license to carry on such business, or who shall violate any of the provisions of this section, shall be guilty of a misdemeanor.

6. The license fees collected hereunder shall be paid to the comptroller and shall constitute a fund to be used in the joint discretion of the comptroller and commissioner of labor for the expenses necessary for carrying out the provisions of this section. [*Section 156 added as section 156-a by L. 1911, ch. 845; am'd and renumbered by L. 1912, ch. 543.*]

Further legislative action is necessary for the disposition of this fund in conformity with the requirement of the state constitution that every appropriation shall distinctly specify the amount appropriated: Opinion of Attorney-General, January 3, 1912.

§ 156-a. Reports.—The commissioner of labor shall make an annual report to the legislature of the operation of this bureau. [*Originally § 156; renumbered by L. 1912, ch. 543.*]

ARTICLE 12

[Formerly article 11; renumbered by L. 1913, ch. 145]

Employment of Women and Children in Mercantile Establishments*

[Until October 1, 1908, the enforcement of this article everywhere was in the hands of local boards of health. Enforcement in cities of the first class was transferred to the department of labor on October 1, 1908, and in cities of the second class on March 28, 1913; elsewhere enforcement remains as before; § 172. Non-compliance with provisions is a misdemeanor: Penal Law, § 1275, p. 222, post. For the Industrial Code rules on sanitation of mercantile establishments, see pp. 148-164, post.]

Section 160. Application of article.

- 161. Hours of labor of minors.
- 161-a. Hours of labor of messengers.
- 162. Employment of children.
- 163. Employment certificate; how issued.
- 164. Contents of certificate.
- 165. School record, what to contain.
- 166. Supervision over issuance of certificates.
- 167. Registry of children employed.
- 168. Wash-rooms and water-closets.
- 169. Lunch rooms.
- 170. Seats for women in mercantile establishments.
- 171. Employment of women and children in basements.
- 172. Enforcement of article.
- 173. Laws to be posted.

§ 160. Application of article.—The provisions of this article shall apply to all villages and cities which at the last preceding state enumeration had a population of three thousand or more.

§ 161. Hours of labor of minors and women; time for meals.—1. No child under the age of sixteen years shall be employed, permitted or suffered to work in or in connection with any mercantile establishment, business office, telegraph office, restaurant, hotel, apartment house, theater or other place of amusement, bowling alley, barber shop, shoe-polishing establishment, or in the distribution or transmission of merchandise, articles or messages, or in the distribution or sale of articles more than six days or forty-eight hours in any one week, or more than eight hours in any one day, or before eight o'clock in the morning or after six o'clock in the evening of any day. The foregoing provision shall not apply to any employment prohibited or regulated by section four hundred and eighty-five of the penal law.

For exceptions relative to the distribution of newspapers see § 161-b, post.

2. No female employee over the age of sixteen years shall be required, permitted or suffered to work in or in connection with any mercantile establishment more than six days or fifty-four hours in any one week, or more than nine hours in any one day, except that one day in each week may be longer than nine hours for the purpose of making one or more shorter work days in the week; or before seven o'clock in the morning or after ten o'clock in the evening of any day. This section does not apply to the employment of persons sixteen years of age or upward between the eighteenth day of December and the following twenty-fourth day of December, both inclusive, or to such employ-

* For general note giving references to other laws relative to employment of minors, see under "Child Labor," p. 253, post.

ment for two additional days at any time during the year for the purpose of stocktaking. [*Subd. 2 am'd by L. 1915, ch. 386.*]

The provision for lengthening the working hours of one or more days for the purpose of shortening some work day is applicable to second-class cities as well as to other localities: Opinion of Attorney-General, May 24, 1913.

The subdivision does not ordinarily apply to restaurants and lunch rooms: Opinion of Attorney-General, May 2, 1914.

3. Not less than forty-five minutes shall be allowed for the noonday meal of the employees of any establishment specified in subdivision one hereof, unless the commissioner of labor shall permit a shorter time. Such permit shall be kept conspicuously posted in the main entrance of the establishment, but it may be revoked at any time. Whenever any employee is employed or permitted to work after seven o'clock in the evening, such employee shall be allowed at least twenty minutes to obtain lunch or supper between five and seven o'clock in the evening. [*Section 161 am'd by L. 1910, ch. 387; L. 1911, ch. 866; and L. 1913, ch. 493; am'd and subdivided by L. 1914, ch. 331.*]

The power of the commissioner of labor to permit a shorter noon interval extends outside cities of the first and second class: Opinion of Attorney-General, September 22, 1914.

The provision relative to lunch or supper intervals applies to all employees irrespective of age or sex: Opinion of Attorney-General, January 29, 1914.

Compare this section with § 77, *ante*.

* § 161-a. Posting notice as to number of hours employed.—A printed notice, in a form which shall be furnished by the commissioner of labor, stating the number of hours per day for each day of the week required of employees enumerated in section one hundred and sixty-one, and the time when their work shall begin and end, shall be kept posted in a conspicuous place in each room where they are employed. Such employees may begin their work after the time for beginning and stop before the time for ending such work, mentioned in such notice, but they shall not otherwise be employed, permitted or suffered to work in such mercantile establishment except as stated therein. The terms of such notice shall not be changed after the beginning of labor on the first day of the week without the consent of the commissioner of labor. [*Added by L. 1915, ch. 386.*]

* § 161-a. Hours of labor of messengers.—In cities of the first or second class no person under the age of twenty-one years shall be employed or permitted to work as a messenger for a telegraph or messenger company in the distribution, transmission or delivery of goods or messages before five o'clock in the morning or after ten o'clock in the evening of any day. [*Added by L. 1910, ch. 342.*]

Compare Article 15, *post*, as to employment of children in street trades; Penal Law, § 488, p. 261, *post*.

§ 161-b. Employment of children in carrying and distributing newspapers.—Upon obtaining a permit and badge as provided by this section, a male child over twelve years of age between the close of school and six-thirty o'clock in the afternoon and a male child over fourteen years of age between five-thirty and eight o'clock in the morning may be employed to carry and distribute newspapers on a newspaper route in a city or village, if no other

*As in original, both §§ numbered 161-a.

work or employment be required or permitted to be done by any such child during that time. The badge or permit required by this section shall be issued to such child by the district superintendent or the board of education of the city or village and school district where such child resides, or by such other officer thereof as may be officially designated by such board for that purpose, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case such child has no parent, guardian or custodian then on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age prescribed by this section, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of the normal development of a child of his age and physically fit for such employment, and that such principal or chief executive officer approves the granting of a permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration. After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and describe the color of hair and eyes, the height and weight and any distinguishing facial mark of such child, and shall further state that the papers required by this section have been duly examined and filed; and that the child named in such permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding with the number of the permit, and the name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the presence of the officer issuing the same by the child in whose name it is issued. The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city or village in distributing newspapers without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police or attendance officer. [*Added by L. 1914, ch. 21.*]

§ 162. **Employment of children.**—No child under the age of fourteen years shall be employed or permitted to work in or in connection with any mercantile or other business or establishment specified in the preceding section. No child under the age of sixteen years shall be so employed or permitted to work unless an employment certificate, issued as provided in this article, shall have been theretofore filed in the office of the employer at the place of employment of such child. [*As am'd by L. 1909, ch. 293, and by L. 1911, ch. 866.*]

Compare § 70, *ante*, and Education Law, §§ 626, 628, pp. 255, 256, *post*.

Section 488 of the Penal Law, p. 261, *post*, makes it a misdemeanor to send a messenger boy into disorderly houses, unlicensed saloons, etc.

§ 163. Employment certificate; how issued.—Such certificate shall be issued by the commissioner of health or the executive officer of the board or department of health of the city, town or village where such child resides or is to be employed, or by such officer thereof as may be designated by such board, department or commissioner for that purpose, upon the application of the parent, guardian or custodian of the child desiring such employment. Such officer shall not issue such certificate until he has received, examined, approved and filed the following papers duly executed, viz.: The school record of such child properly filled out and signed as provided in this article; also, evidence of age showing that the child is fourteen years old or upwards, which shall consist of the evidence thereof provided in one of the following subdivisions of this section and which shall be required in the order herein designated as follows:

(a) Birth certificate.—A duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics or other officer charged with the duty of recording births, which certificate shall be conclusive evidence of the age of such child.

(b) Certificate of graduation.—A certificate of graduation duly issued to such child showing that such child is a graduate of a public school of the state of New York or elsewhere, having a course of not less than eight years, or of a school in the state of New York other than a public school, having a substantially equivalent course of study of not less than eight years' duration, in which a record of the attendance of such child has been kept as required by article twenty of the education law, provided that the record of such school shows such child to be at least fourteen years of age.

(c) Passport or baptismal certificate.—A passport or a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of such child.

(d) Other documentary evidence.—In case it shall appear to the satisfaction of the officer to whom application is made, as herein provided, for an employment certificate, that a child for whom such certificate is requested and who has presented the school record, is in fact over fourteen years of age, and that satisfactory documentary evidence of age can be produced, which does not fall within any of the provisions of the preceding subdivisions of this section, and that none of the papers mentioned in said subdivisions can be produced, then and not otherwise he shall present to the board of health of which he is an officer or agent, for its action thereon, a statement signed by him showing such facts, together with such affidavits or papers as may have been produced before him constituting such evidence of the age of such child, and the board of health, at a regular meeting thereof, may then, by resolution, provide that such evidence of age shall be fully entered on the minutes of such board, and shall be received as sufficient evidence of the age of such child for the purpose of this section.

(e) Physicians' certificates.—In cities of the first class only, in case application for the issuance of an employment certificate shall be made to such officer by a child's parent, guardian or custodian who alleges his inability to produce any of the evidence of age specified in the preceding subdivisions of this section, and if the child is apparently at least fourteen years of age, such officer may receive and file an application signed by the parent,

guardian or custodian of such child for physicians' certificates. Such application shall contain the alleged age, place and date of birth, and present residence of such child, together with such further facts as may be of assistance in determining the age of such child. Such application shall be filed for not less than ninety days after date of such application for such physicians' certificates, for an examination to be made of the statements contained therein, and in case no facts appear within such period or by such examination tending to discredit or contradict any material statement of such application, then and not otherwise, the officer may direct such child to appear thereafter for physical examination before two physicians officially designated by the board of health, and in case such physicians shall certify in writing that they have separately examined such child and that in their opinion such child is at least fourteen years of age such officer shall accept such certificates as sufficient proof of the age of such child for the purposes of this section. In case the opinions of such physicians do not concur, the child shall be examined by a third physician and the concurring opinions shall be conclusive for the purpose of this section as to the age of such child.

Such officer shall require the evidence of age specified in subdivision (a) in preference to that specified in any subsequent subdivision and shall not accept the evidence of age permitted by any subsequent subdivision unless he shall receive and file in addition thereto an affidavit of the parent showing that no evidence of age specified in any preceding subdivision or subdivisions of this section can be produced. Such affidavit shall contain the age, place and date of birth, and present residence of such child, which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and who shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child shall further have personally appeared before and been examined by the officer issuing the certificate, and until such officer shall, after making such examination, sign and file in his office a statement that the child can read and legibly write simple sentences in the English language and that in his opinion the child is fourteen years of age or upwards and has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. In every case, before an employment certificate is issued, such physical fitness shall be determined by a medical officer of the department or board of health, who shall make a thorough physical examination of the child and record the result thereof on a blank to be furnished for the purpose by the commissioner of labor and shall set forth thereon such facts concerning the physical condition and history of the child as the commissioner of labor may require. Every such employment certificate shall be signed in the presence of the officer issuing the same, by the child in whose name it is issued. [*Subd. (e) am'd by L. 1913, ch. 144.*]

Compare § 71, *ante*, and note.

False statement in relation to the certificate or application therefor is specifically denounced as a misdemeanor by the Penal Law, § 1275, p. . *post*.

§ 164. Contents of certificate.—Such certificate shall state the date and place of birth of the child, and describe the color of hair and eyes and the height and weight and any distinguishing facial marks of such child, and

that the papers required by the preceding section have been duly examined, approved and filed and that the child named in such certificate has appeared before the officer signing the certificate and been examined.

Identical with § 72, *ante*.

§ 165. School record what to contain.—The school record required by this article shall be signed by the principal or chief executive officer of the school which such child has attended and shall be furnished on demand to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday, or during the twelve months next preceding his application for such school record, and is able to read and write simple sentences in the English language, has received during such period instruction in reading, spelling, writing, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions and has completed the work prescribed for the first six years of the public elementary school or school equivalent thereto or parochial school, from which such school record is issued. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parent or guardian or custodian. [*As am'd by L. 1913, ch. 144.*]

Identical with § 73, *ante*. Compare Education Law, § 630, p. 256, *post*.

§ 166. Supervision over issuance of certificates.—The board or department of health or health commissioner of a city, village or town shall transmit between the first and tenth day of each month to the commissioner of labor a list of the names of all children to whom certificates have been issued during the preceding month, together with a duplicate record of all examinations as to physical fitness, including those resulting in rejection. In cities of the first and second class all employment certificates and school records required under the provisions of this chapter shall be in such form as shall be approved by the commissioner of labor. In towns, villages or cities other than cities of the first or second class, the commissioner of labor shall prepare and furnish blank forms for such employment certificates and school records. No school record or employment certificate required by this article other than those approved or furnished by the commissioner of labor as above provided shall be used. The commissioner of labor shall inquire into the administration and enforcement of the provisions of this article by all public officers charged with the duty of issuing employment certificates, and for that purpose the commissioner of labor shall have access to all papers and records required to be kept by all such officers. [*Added by L. 1913, ch. 144.*]

§ 167. Registry of children employed.—The owner, manager or agent of a mercantile or other establishment specified in section one hundred and sixty-one, employing children, shall keep or cause to be kept in the office of such establishment, a register, in which shall be recorded the name, birthplace, age and place of residence of all children so employed under the age of sixteen years. Such register and the certificate filed in such office shall be produced for inspection, upon the demand of an officer of the board, depart-

ment or commissioner of health of the town, village or city where such establishment is situated, or if such establishment is situated in a city of the first or second class, upon the demand of the commissioner of labor. On termination of the employment of the child so registered and whose certificate is so filed, such certificate shall be forthwith surrendered by the employer to the child or its parent or guardian or custodian. An officer of the board, department or commissioner of health of the town, village or city where a mercantile or other establishment mentioned in this article is situated, or if such establishment is situated in a city of the first or second class the commissioner of labor may make demand on an employer in whose establishment a child apparently under the age of sixteen years is employed or permitted or suffered to work, and whose employment certificate is not then filed as required by this chapter, that such employer shall either furnish him, within ten days, evidence satisfactory to him that such child is in fact over sixteen years of age, or shall cease to employ or permit or suffer such child to work in such establishment. The officer may require from such employer the same evidence of age of such child as is required on the issuance of an employment certificate and the employer furnishing such evidence shall not be required to furnish any further evidence of the age of the child. A notice embodying such demand may be served on such employer personally or may be sent by mail addressed to him at said establishment, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation such notice may be served either personally upon an officer of such corporation, or by sending it by post addressed to the office or the principal place of business of such corporation. The papers constituting such evidence of age furnished by the employer in response to such demand shall, except in cities of the first and second class, be filed with the board, department or commissioner of health, and in cities of the first and second class with the commissioner of labor, and a material false statement made in any such paper or affidavit by any person shall be a misdemeanor. In case such employer shall fail to produce and deliver to the officer of the board, department or commissioner of health, or in cities of the first and second class to the commissioner of labor, within ten days after such demand such evidence of age herein required by him, and shall thereafter continue to employ such child or permit or suffer such child to work in such mercantile or other establishment, proof of the giving of such notice and of such failure to produce and file such evidence shall be prima facie evidence in any prosecution brought for a violation of this article that such child is under sixteen years of age and is unlawfully employed. [*As am'd by I. 1913, ch. 145.*]

Compare § 76, *ante*.

§ 168. Cleanliness of rooms.—Every room in a mercantile establishment and the floor, walls, ceilings, windows and every other part thereof and all fixtures therein shall at all times be kept in a clean and sanitary condition. Floors shall, at all times, be maintained in a safe condition. Suitable recep-

tacles shall be provided and used for the storage of waste and refuse; such receptacles shall be maintained in a sanitary condition. [*As am'd by L. 1911, ch. 866; L. 1913, ch. 145; and L. 1914, ch. 183.*]

Compare industrial code, rules 169-177, governing mercantile buildings and workrooms, pp. 158, 159, *post*; compare requirements for factories in § 88; and for bakeries in §§ 112, 113, *ante*.

§ 168-a. Cleanliness of buildings.—Every part of a building in which a mercantile establishment is located and of the premises thereof and the yards, courts, passages, areas or alleys connected with or belonging to the same, shall be kept free from any accumulation of dirt, filth, rubbish or garbage. The roof, passages, stairs, halls, basements, cellars, privies, water-closets, and all other parts of such building and the premises thereof shall at all times be kept in a clean, sanitary and safe condition. The entire building and premises shall be well drained and the plumbing, cesspools and drains thereof at all times kept in proper repair and in a sanitary condition. [*Added by L. 1914, ch. 183.*]

Compare industrial code, rules 181-196, governing plumbing and drainage of mercantile establishments, pp. 161-164, *post*.

§ 168-b. Drinking water.—In every mercantile establishment there shall be provided at all times for the use of employees a sufficient supply of clean and pure drinking water. Such water shall be supplied through proper pipe connections with water mains through which is conveyed the water used for domestic purposes, or from a spring or well or body of pure water. If such drinking water be placed in receptacles in the mercantile establishment, such receptacles shall be properly covered to prevent contamination and shall be thoroughly cleaned at frequent intervals. [*Added by L. 1914, ch. 183.*]

Compare industrial code, rules 164, 165, governing drinking water of mercantile establishments, p. 158, *post*; compare also requirements for factories, § 88, subd. 1, *ante*.

§ 168-c. Wash-rooms and washing facilities.—In every mercantile establishment there shall be provided and maintained for the use of employees adequate and convenient wash-rooms, or washing facilities. Such washing facilities shall consist of sinks or stationary basins provided with running water or with tanks holding an adequate supply of clean water and shall be separate for each sex wherever required by the rules of the industrial board. Every wash-room shall be provided with adequate means of ventilation and heating and artificial illumination. [*Added by L. 1914, ch. 183.*]

Compare industrial code, rules 148-157, governing mercantile establishment wash-rooms, pp. 155, 156, *post*; compare also requirements for factories, § 88, subd. 2, *ante*.

§ 168-d. Dressing rooms.—In every mercantile establishment where more than five women are employed a sufficient number of dressing rooms conveniently located shall be provided for their use. Each dressing room shall be properly ventilated by a window or by suitable ducts leading to the outer air and shall be enclosed by partitions or walls. Each dressing room shall be provided with adequate means for artificial illumination, suitable means for hanging clothes and a suitable number of seats and shall be properly heated and ventilated. Each dressing room shall be separated from any

water-closet compartment by adequate partitions. Adequate floor space shall be provided in dressing rooms in proportion to the number of employees. Where more than ten women are employed such dressing room shall have a floor space of not less than sixty square feet and shall have at least one window opening to the outer air. [*Added by L. 1914, ch. 183.*]

Compare industrial code, rules 158-163, 178-181, governing mercantile establishment dressing and emergency rooms, pp. 157, 158, 160, 161, *post*; compare also requirements for factories, § 88, subd. 3, *ante*.

§ 168-e. Water-closets.—1. There shall be provided for every mercantile establishment a sufficient number of suitable and convenient water-closets. All water-closets shall be maintained inside the mercantile establishment except where, in the opinion of the commissioner, it is impracticable to do so.

2. There shall be separate water-closet compartments or toilet rooms for females, to be used by them exclusively, and notice to that effect shall be clearly marked at the entrance of such compartments or rooms. The entrance to every water-closet shall be effectively screened by a partition or vestibule. Where water-closets for males and females are in adjoining compartments or toilet rooms, there shall be partitions of substantial construction between the compartments or rooms extending from the floor to the ceiling and such partitions shall be plastered or metal covered to a sufficient height. Whenever any water-closet compartments open directly into the workroom, exposing the interior they shall be screened from view by a partition or a vestibule. The use of curtains for screening purposes is prohibited.

3. The use of any form of trough water-closet, latrine or school sink within any mercantile establishment is prohibited except such fixtures in existence on the first day of October, nineteen hundred and fourteen, having a common flushing system and approved by the industrial board in its rules. All such trough water-closets, latrines or school sinks shall, before the first day of October, nineteen hundred and fifteen, be completely removed and the place where they were located properly disinfected under the direction of the department.

4. Every water-closet installed before October first, nineteen hundred and fourteen, inside any mercantile establishment shall have a basin of enameled iron or earthenware, and shall be flushed from a separate water-supplied cistern or through a proper valve connected in such manner as to keep the water supply of the establishment free from contamination.

5. All woodwork enclosing water-closet fixtures shall be removed from the front of the closet and the space underneath the seat shall be left open. All water-closet compartments or toilet rooms constructed before October first, nineteen hundred and fourteen, shall have windows opening directly to the outer air or shall be otherwise properly ventilated to the outer air by suitable ducts, and shall be provided with means for artificial illumination.

6. All water-closets, urinals, water-closet compartments and toilet rooms hereafter installed in a mercantile establishment, including those provided to replace existing fixtures shall be properly constructed, installed, ventilated, lighted and maintained in accordance with such rules as may be adopted by the industrial board.

7. All water-closet compartments and toilet rooms, and the floors, walls, ceilings and surface thereof, and all fixtures therein, and all water-closets

and urinals shall at all times be maintained in a clean and sanitary condition. The floor or other surface beneath and around the closet shall be maintained in good order and repair and all the woodwork shall be kept well painted with a light colored paint. The enclosure of each compartment and toilet room shall be kept free from obscene writing or marking. Where the water supply to water-closets or urinals is liable to freeze, the water-closet compartment shall be properly heated so as to prevent freezing, or the supply and flush pipes, cisterns and traps and valves shall be effectively covered with wool felt or hair felt, or other adequate covering. [Section 168-e added by L. 1914, ch. 183.]

Compare industrial code, rules 100-147, 166-168, governing mercantile establishment toilet rooms, water-closets, privies and urinals, pp. 148-155, 158, *post*; compare also requirements for factories, § 88-a; for foundries, § 97; for bakeries, §§ 112, 113.

§ 168-f. Ventilation.— Every mercantile establishment shall be provided with proper and sufficient means of ventilation by natural or mechanical means or both, as may be necessary and there shall be maintained therein proper and sufficient ventilation and proper degrees of temperature and humidity at all times during working hours. The industrial board shall make rules for and fix standards of ventilation, temperature and humidity in mercantile establishments. [Added by L. 1914, ch. 183.]

Compare special requirements for factories, §§ 86, 88; for tenement-factories, § 100, subd. 6; for mines and tunnels, § 122; for basements of mercantile establishments, § 171.

§ 169. Lunch-rooms.— If a lunch-room is provided in a mercantile establishment where females are employed, such lunch-room shall not be next to or adjoining the water-closets, unless permission is first obtained from the board or department of health or health commissioners of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first or second class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that proper sanitary conditions do not exist, and it may be revoked at any time by the board or department of health or health commissioners, if it appears that such lunch-room is kept in a manner or in a part of a building injurious to the health of the employees, unless such establishment is situated in a city of the first or second class, in which case said permission may be so revoked by the commissioner of labor. [As am'd by L. 1913, ch. 145.]

Compare § 89-a, *ante*.

§ 170. Seats for women in mercantile establishments.— Chairs, stools or other suitable seats shall be maintained in mercantile establishments for the use of female employees therein, to the number of at least one seat for every three females employed, and the use thereof by such employees shall be allowed at such times and to such extent as may be necessary for the preservation of their health. If the duties of the female employees, for the use of whom the seats are furnished, are to be principally performed in front of a counter, table, desk or fixture, such seats shall be placed in front thereof; if such duties are to be principally performed behind such counter, table, desk or fixture, such seats shall be placed behind the same.

Compare §§ 17, 88, *ante*.

§ 171. **Employment of women and children in basements.**—Women or children shall not be employed or permitted to work in the basement of a mercantile establishment, unless permitted by the board or department of health, or health commissioner of the town, village or city where such mercantile establishment is situated, unless such establishment is situated in a city of the first or second class in which case such permission must be obtained from the commissioner of labor. Such permission shall be granted unless it appears that such basement is not sufficiently lighted and ventilated, and is not in good sanitary condition. [*As am'd by L. 1913, ch. 145.*]

§ 172. **Enforcement of article.**—Except in cities of the first and second class the board or department of health or health commissioners of a town, village or city affected by this article shall enforce the same and prosecute all violations thereof. Proceedings to prosecute such violations must be begun within sixty days after the alleged offense was committed. All officers and members of such boards or department, all health commissioners, inspectors and other persons appointed or designated by such boards, departments or commissioners may visit and inspect, at reasonable hours and when practicable and necessary, all mercantile or other establishments herein specified within the town, village or city for which they are appointed. No person shall interfere with or prevent any such officer from making such visitations and inspections, nor shall he be obstructed or injured by force or otherwise while in the performance of his duties. All persons connected with any such mercantile or other establishment herein specified shall properly answer all questions asked by such officer or inspector in reference to any of the provisions of this article. In cities of the first and second class the commissioner of labor shall enforce the provisions of this article, and for that purpose he and his subordinates shall possess all powers herein conferred upon town, village, or city boards and departments of health and their commissioners, inspectors, and other officers, except that the board or department of health of said cities of the first and second class shall continue to issue employment certificates as provided in section one hundred and sixty-three of this chapter. [*As am'd by L. 1913, ch. 145.*]

§ 173. **Laws to be posted.**—A copy or abstract of applicable provisions of this chapter and of the rules and regulations of the industrial board to be prepared and furnished by the commissioner of labor shall be kept posted by the employer in a conspicuous place on each floor of every mercantile or other establishment specified in article twelve of this chapter situated in cities of the first or second class, wherein three or more persons are employed who are affected by such provisions. [*As am'd by L. 1913, ch. 145.*]

ARTICLE 13

Convict-made Goods and Duties of Commissioner of Labor Relative Thereto

[Compare § 620 of the Penal Law, p. 220. post. See also subject Prison Labor, pp. 291-299, post. As to constitutionality see *People v. Beattie*, 96 App. Div. 383; *People ex rel. Appel v. Zimmerman*, 102 App. Div. 108; *People v. Hawkins*, 157 N. Y. 1; and *People ex rel. Phillips v. Raynes*, 136 App. Div. 417, aff'd 198 N. Y. Mem. 39. Also Constitution, art. III, § 29, p. 291, post.]

Section 190. License for sale of convict-made goods.

191. Revocation of license.

192. Annual statement of licensee.

193. Labeling and marking convict-made goods.

194. Duties of commissioner of labor relative to violations; fines upon convictions.

195. Article not to apply to goods manufactured for use of state or a municipal corporation.

§ 190. License for sale of convict-made goods.—No person or corporation shall sell, or expose for sale, any convict-made goods, wares or merchandise, either by sample or otherwise, without a license therefor. Such license may be obtained upon application in writing to the comptroller, setting forth the residence or post-office address of the applicant, the class of goods desired to be dealt in, the town, village or city, with the street number, if any, at which the business of such applicant is to be located. Such application shall be accompanied with a bond, executed by two or more responsible citizens, or some legally incorporated surety company authorized to do business in this state to be approved by the comptroller, in the sum of five thousand dollars, and conditioned that such applicant will comply with all the provisions of law relative to the sale of convict-made goods, wares and merchandise. Such license shall be for a term of one year unless sooner revoked. Such person or corporation shall pay, annually, on or before the fifteenth day of January, the sum of five hundred dollars as a license fee, into the treasury of the state, which amount shall be credited to the maintenance account of the state prisons.

Such license shall be kept conspicuously posted in the place of business of such licensee.

The requirement of a license as in this section is unconstitutional: *People ex rel. Phillips v. Raynes*, 136 App. Div. 417, aff'd 198 N. Y. Mem. 39.

Products of labor of prisoners in this state not to be sold: Const., art. III, § 29, p. 238, post.

§ 191. Revocation of license.—The comptroller may revoke the license of any such person or corporation, upon satisfactory evidence of, or upon conviction for the violation of any statute regulating the sale of convict-made goods, wares or merchandise; such revocation shall not be made until after due notice to the licensee so complained of. For the purpose of this section, the comptroller or any person duly appointed by him, may administer oaths and subpoena witnesses and take and hear testimony.

§ 192. Annual statement of licensee.—Each person or corporation so licensed shall, annually, on or before the fifteenth day of January, transmit to the secretary of state a verified statement setting forth:

1. The name of the person or corporation licensed.

2. The names of the persons, agents, wardens or keepers of any prison, jail,

penitentiary, reformatory or establishment using convict labor, with whom he has done business, and the name and address of the person or corporation to whom he has sold goods, wares and merchandise, and

3. In general terms, the amount paid to each of such agents, wardens or keepers, for goods, wares or merchandise and the character thereof.

§ 193. Labeling and marking convict-made goods.—All goods, wares and merchandise made by convict labor in a penitentiary, prison, reformatory or other establishment in which convict labor is employed, shall be branded, labeled or marked as herein provided. The brand, label or mark, used for such purpose, shall contain at the head or top thereof, the words "convict-made," followed by the year when, and the name of the penitentiary, prison, reformatory or other establishment in which the article branded, labeled or marked was made.

Such brands, labels and marks shall be printed in plain English lettering, of the style and size known as great primer Roman condensed capitals. A brand or mark shall be used in all cases where the nature of the article will permit and only where such branding or marking is impossible shall a label be used. Such label shall be in the form of a paper tag and shall be attached by wire to each article, where the nature of the article will permit, and shall be placed securely upon the box, crate or other covering in which such goods, wares or merchandise are packed, shipped or exposed for sale.

Such brand, mark or label shall be placed upon the most conspicuous part of the finished article and its box, crate or covering.

No convict-made goods, wares or merchandise shall be sold or exposed for sale without such brand, mark or label.

The requirement of branding of goods from other states was held unconstitutional in 1898 in *People v. Hawkins*, 157 N. Y. 1.

§ 194. Duties of commissioner of labor relative to violations; fines upon convictions.—The commissioner of labor shall enforce the provisions of this article. If he has reason to believe that any of such provisions are being violated, he shall advise the district attorney of the county wherein such alleged violation has occurred of such fact, giving the information in support of his conclusion. The district attorney shall, at once, institute the proper proceedings to compel compliance with this article and secure conviction for such violations.

Upon the conviction of a person or corporation for a violation of this article, one-half of the fine recovered shall be paid and certified by the district attorney to the commissioner of labor, who shall use such money in investigating and securing information in regard to violations of this chapter, and in paying the expenses of such conviction.

Compare Penal Law, § 620, p. 220, *post*.

§ 195. Article not to apply to goods manufactured for use of state or a municipal corporation.—Nothing in this article shall apply to or affect the manufacture in state prisons, reformatories and penitentiaries, and furnishing of articles for the use of the offices, departments and institutions of the state or any political division thereof, as provided by sections one hundred fifty-eight, one hundred seventy to one hundred seventy-five, both inclusive, one hundred seventy-seven, one hundred seventy-eight, one hundred eighty-one, one hundred eighty-three, one hundred eighty-five, one hundred eighty-six, one hundred eighty-nine, and one hundred ninety-one of the prison law.

ARTICLE 14

Employer's Liability

*[There should be read with this article §§ 11, 29, 53, of the Workmen's Compensation Law, pp. 227, 235, 238, post, and, in the case of railway employees, § 64 of the Railroad Law, p. 267, post. The Federal Employers' Liability Act is paramount and exclusive as concerns employment in interstate commerce: *Burnett v. Erie R. R. Co.*, 159 App. Div. 712. Court decisions under the liability laws are very numerous, but a large proportion of these are of little general significance outside of the particular case in hand. Only a few of those which seem of leading importance since the amendment of 1910 are here referred to in notes.]*

Section 200. Employer's liability for injuries.

201. Notice to be served.

202. Assumption of risks; contributory negligence, when a question of fact.

202-a. Trial; burden of proof.

203. Defense; insurance fund.

204. Existing rights of action continued.

205. Consent by employer and employee to compensation plan.

206. Liability to pay compensation; notice of accident.

207. Amount of compensation; persons entitled; physical examination.

208. Settlement of disputes.

209. Preferential claim; not assignable or subject to attachment; attorney's fee.

210. Cancellation of consent.

211. Reports of compensation plan.

212. Reports by employer.

§ 200. Employer's liability for injuries.—When personal injury is caused to an employee who is himself in the exercise of due care and diligence at the time:

1. By reason of any defect in the condition of the ways, works, machinery, or plant, connected with or used in the business of the employer which arose from or had not been discovered or remedied owing to the negligence of the employer or of any person in the service of the employer and intrusted by him with the duty of seeing that the ways, works, machinery, or plant, were in proper condition. *[Subd. 1 am'd by L. 1910, ch. 352.]*

2. By reason of the negligence of any person in the service of the employer intrusted with any superintendence or by reason of the negligence of any person intrusted with authority to direct, control or command any employee in the performance of the duty of such employee. The employee, or in case the injury results in death, the executor or administrator of a deceased employee who has left him surviving a husband, wife or next of kin, shall have the same right of compensation and remedies against the employer as if the employee had not been an employee of nor in the service of the employer nor engaged in his work. The provisions of law relating to actions for causing death by negligence, so far as the same are consistent with this act, shall apply to an action brought by an executor or administrator of a deceased employee, suing under the provisions of this article. If an employer enters into a contract, written or verbal, with an independent contractor to do part of such employer's work, or if such contractor enters into a contract with a subcontractor to do all or any part of the work comprised in such contractor's contract with the employer, such contract or subcontract shall not bar the liability of the employer for the injuries to the employees of

such contractor or subcontractor, caused by any defect in the condition of the ways, works, machinery, or plant, if they are the property of the employer or are furnished by him, and if such defect arose, or had not been discovered or remedied, through the negligence of the employer, or of some person intrusted by him with the duty of seeing that they were in proper condition. [*Subd. 2 am'd by L. 1910, ch. 352.*]

As to scope of word "plant" see *Lipstein v. Provident Loan Society*, 154 App. Div. 732; *Fresusk v. Pittsburg Contracting Co.*, 159 App. Div. 356; *Kenz v. Bernheimer & Schwartz Pilsener Brewing Co.*, 162 App. Div. 777; *Druty v. American Fruit Product Co.*, 163 App. Div. 509. As to the responsibility of the owner of a "plant" for the safety of the employee of a contractor see *Kenz v. Bernheimer & Schwartz Pilsener Brewing Co.*, 162 App. Div. 777.

§ 201. Notice to be served.—No action for recovery of compensation for injury or death under this article shall be maintained unless notice of the time, place and cause of the injury is given to the employer within one hundred and twenty days and the action is commenced within one year after the occurrence of the accident causing the injury or death. The notice required by this section shall be in writing and signed by the person injured or by some one in his behalf, but if from physical or mental incapacity it is impossible for the person injured to give notice within the time provided in this section, he may give the same within ten days after such incapacity is removed. In case of his death without having given such notice, his executor or administrator may give such notice within sixty days after his appointment, but no notice under the provisions of this section shall be deemed to be invalid or insufficient solely by reason of any inaccuracy in stating the time, place or cause of the injury if it be shown that there was no intention to mislead and that the party entitled to notice was not in fact misled thereby. If such notice does not apprise the employer of the time, place or cause of injury, he may, within eight days after service thereof, serve upon the sender a written demand for a further notice, which demand must specify the particular in which the first notice is claimed to be defective, and a failure by the employer to make such demand as herein provided shall be a waiver of all defects that the notice may contain. After service of such demand as herein provided, the sender of such notice may at any time within eight days thereafter serve an amended notice which shall supersede such first notice and have the same effect as an original notice hereunder. The notice required by this section shall be served on the employer, or if there is more than one employer, upon one of such employers, and may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served. The notice or demand may be served by post by letter addressed to the person on whom it is to be served, at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post. When the employer is a corporation, notice shall be served by delivering the same or by sending it by post addressed to the office or principal place of business of such corporation. [*As am'd by L. 1910, ch. 352.*]

The sufficiency and the mode of signing the notice are interpreted in *Rodzborski v. American Sugar Refining Co.*, 210 N. Y. 262; waiver of the notice, in *Dalley v. Stoll*, 211 N. Y. 74.

§ 202. Assumption of risks; contributory negligence, when a question of fact.—An employee by entering upon or continuing in the service of the employer shall be presumed to have assented to the necessary risks of the occupation or employment and no others. The necessary risks of the occupation or employment shall, in all cases arising after this article takes effect, be considered as including those risks, and those only, inherent in the nature of the business which remain after the employer has exercised due care in providing for the safety of his employees, and has complied with the laws affecting or regulating such business or occupation for the greater safety of such employees. In an action brought to recover damages for personal injury or for death resulting therefrom received after this act takes effect, owing to any cause, including open and visible defects, for which the employer would be liable but for the hitherto available defense of assumption of risk by the employee, the fact that the employee continued in the service of the employer in the same place and course of employment after the discovery by such employee, or after he had been informed of the danger of personal injury therefrom shall not be, as matter of fact or as matter of law, an assumption of the risk of injury therefrom, but an employee, or his legal representative, shall not be entitled under this article to any right of compensation or remedy against the employer in any case where such employee knew of the defect or negligence which caused the injury and failed, within a reasonable time, to give, or cause to be given, information thereof to the employer, or to some person superior to himself in the service of the employer, or who had intrusted to him some superintendence, unless it shall appear on the trial that such defect or negligence was known to such employer, or superior person, prior to such injuries to the employee; or unless such defect could have been discovered by such employer by reasonable and proper care, tests or inspection. [*As am'd by L. 1910, ch. 352.*]

§ 202-a. Trial; burden of proof.—On the trial of any action brought by an employee or his personal representative to recover damages for negligence arising out of and in the course of such employment, contributory negligence of the injured employee shall be a defense to be so pleaded and proved by the defendant. [*Added by L. 1910, ch. 352.*]

Contributory negligence may be predicated as matter of law: *Hogan v. N. Y. C. & H. R. R. Co.*, 208 N. Y. 445.

This section applies to cases arising under the labor law generally, and not merely to cases arising under article 14, known as the employer's liability act: *Hubbell v. Pioneer Paper Co.*, 160 App. Div. 356.

§ 203. Defense; insurance fund.—An employer who shall have contributed to an insurance fund created and maintained for the mutual purpose of indemnifying an employee for personal injuries, for which compensation may be recovered under this article, or to any relief society or benefit fund created under the laws of this state, may prove in mitigation of damages recoverable by an employee under this article such proportion of the pecuniary benefit which has been received by such employee from such fund or society on account of such contribution of the employer, as the contribution of such employer to such fund or society bears to the whole contribution thereto.

Under the common law an agreement relieving the employer from liability is void: *Johnston v. Fargo*, as President of the American Express Company, 184 N. Y. 379, (1906), aff'g 98 App. Div. 436. But an employee may release an employer from liability in consideration of benefits from a relief fund: *Colalizzi v. Pennsylvania R. R. Co.*, 208 N. Y. 275 (1913), aff'g 143 App. Div. 638.

§ 204. Existing rights of action continued.—Every existing right of action for negligence or to recover damages for injuries resulting in death is continued and nothing in this article contained shall be construed as limiting any such right of action, nor shall the failure to give the notice provided for in section two hundred and one of this article be a bar to the maintenance of a suit upon any such existing right of action.

§ 205. Consent by employer and employee to compensation plan.—When and if any employer in this state and any of his employees shall consent to the compensation plan described in sections two hundred and six to two hundred and twelve, inclusive, of this article, hereinafter referred to as the plan, and shall signify their consent thereto in writing signed by each of them or their authorized agents, and acknowledged in the manner prescribed by law for taking the acknowledgment of a conveyance of real property, and such writing is filed with the county clerk of the county in which it is signed by the employee, then so long as such consent has not expired or been canceled as hereinafter provided, such employee, or in case injury to him results in death, his executor or administrator, shall have no other right of action against the employer for personal injury or death of any kind, under any statute or at common law, save under the plan so consented to, except where personal injury to the employee is caused in whole or in part by the failure of the employer to obey a valid order made by the commissioner of labor or other public authority authorized to require the employer to safeguard his employees, or where such injury is caused by the serious or willful misconduct of the employer. In such excepted cases thus described, no right of action which the employee has at common law or by any other statute shall be affected or lost by his consent to the plan, if such employee, or in case of death his executor or administrator, commences such action before accepting any benefit under such plan or giving any notice of injury as provided in section two hundred and six hereof. The commencing of any legal action whatsoever at common law or by any statute against the employer on account of such injury, except under the plan, shall bar the employee, and in the event of his death his executors, administrators, dependents and other beneficiaries, from all benefit under the plan. This section and sections two hundred and six to two hundred and twelve, inclusive, of this article shall not apply to a railroad corporation, foreign or domestic, doing business in this state, or a receiver thereof, or to any person employed by such corporation or receiver. [*Added by L. 1910, ch. 352.*]

§ 206. Liability to pay compensation; notice of accident.—If personal injury by accident arising out of and in the course of the employment is caused to the employee, the employer shall, subject as hereinafter mentioned, be liable to pay compensation under the plan at the rates set out in section two hundred and seven of this article; provided that the employer shall not be liable in respect of any injury which does not disable the employee for a period of at least two weeks from earning full wages at the work at which he was employed, and that the employer shall not be liable in respect of any injury to the employee which is caused by the serious and willful misconduct of that employee. No proceedings for recovery under the plan provided hereby shall be maintained unless notice of the accident has been given to the employer as soon as practicable after the happening thereof and before the employee has voluntarily left the employment in which he was injured

and during such disability, and unless claim for compensation with respect to the accident has been made within six months from the occurrence of the accident, or in the case of death of the employee, or in the event of his physical or mental incapacity within six months after such death or removal of such physical or mental incapacity, or in the event that weekly payments have been made under the plan, within six months after such payments have ceased; but no want of or defect or inaccuracy of a notice shall be a bar to the maintenance of proceedings under the plan unless the employer proves that he is prejudiced by said want, defect or inaccuracy. Notice of the accident shall apprise the employer of the claim for compensation under this plan and shall state the name and address of the employee injured, the date and place of the accident and in simple language the cause thereof. The notice may be served personally or by sending it by mail in a registered letter addressed to the employer at his last known residence or place of business. [Added by L. 1910, ch. 352.]

§ 207. Amount of compensation; persons entitled; physical examination.—The amount of compensation under the plan shall be: 1. In case death results from injury:

(a) If the employee leaves a widow or next of kin at the time of his death wholly dependent on his earnings, a sum equal to twelve hundred times the daily earnings of the employee at the rate at which he was being paid by the employer at the time of the accident, but not more in any event than three thousand dollars. Any weekly payments previously made under the plan shall be deducted in ascertaining such amount payable on death.

(b) If such widow or next of kin or any of them are in part only dependent upon his earnings, such sum not exceeding that provided in subdivision a as may be determined to be reasonable and proportionate to the injury to such dependents.

(c) If he leaves no widow, or next of kin so dependent in whole or in part, the reasonable expenses of his medical attendance and burial, not exceeding one hundred dollars. Whatever sum may be determined to be payable under the plan, in case of death of the injured employee, shall be paid to his legal representative for the benefit of such dependents, or if he leaves no such dependents, for the benefit of the person to whom the expenses of medical attendance and burial are due.

2. Where total or partial incapacity for work at any gainful employment results to the employee from the injury, a weekly payment commencing at the end of the second week after the injury and continuing during incapacity, subject as herein provided, not exceeding fifty per centum of his average weekly earnings when at work on full time during the preceding year during which he shall have been in the employment of the same employer, or if he shall have been employed less than a year, then a weekly payment of not exceeding three times the average daily earnings on full time for such less period.

In fixing the amount of the weekly payment, regard shall be had to any payment, allowance or benefit which the workman may have received from the employer during the period of his incapacity, and in the case of partial incapacity the weekly payment shall in no case exceed the difference between the amount of the average weekly earnings of the workman before the accident and the average amount which he is earning or is able to earn

in some suitable employment or business after the accident but shall amount to one-half of such difference. In no event shall any weekly payment payable under the plan exceed ten dollars per week or extend over more than eight years from the date of the accident. Any person entitled to receive weekly payments under the plan is required, if requested by the employer, to submit himself for examination by a duly qualified medical practitioner or surgeon provided and paid for by the employer, at a time and place reasonably convenient for the employee, within three weeks after the injury, and thereafter at intervals not oftener than once in six weeks. If the workman refuses so to submit or obstructs the same, his right to weekly payments shall be suspended until such examination shall have taken place, and no compensation shall be payable under the plan during such period. In case an injured employee shall be mentally incompetent at the time when any right or privilege accrues to him under the plan, a committee or guardian of the incompetent appointed pursuant to law may, on behalf of such incompetent, claim and exercise any such right or privilege with the same force and effect as if the employee himself had been competent and had claimed or exercised any such right or privilege; and no limitation of time herein provided for shall run so long as said incompetent employee has no committee or guardian. [Section 207 added by L. 1910, ch. 352.]

§ 208. Settlement of disputes.—Any question of law or fact arising in regard to the application of the plan in determining the compensation payable thereunder or otherwise shall be determined either by agreement or by arbitration as provided in the code of civil procedure, or by an action at law as herein provided. In case the employer shall be in default in any of his obligations to the employee under the plan, the injured employee or his committee or guardian, if such be appointed, or his executor or administrator, may then bring an action to recover compensation under the plan in any court having jurisdiction thereof as on a written contract. Such action shall be conducted in the same manner as an action at law for the recovery of damages for breach of a written contract, and shall for all purposes, including the determination of jurisdiction, be deemed such an action. The judgment in such action, in favor of the plaintiff, shall be for a lump sum equal to the amount of the payments then due and prospectively due under the plan. In such action by an executor or administrator the judgment may provide the proportions of the award or the costs to be distributed to or between the several dependents. If such determination is not made it shall be determined by the surrogate's court by which such executor or administrator is appointed, in accordance with the terms of this article on petition of any party on such notice as such court may direct. [Added by L. 1910, ch. 352.]

§ 209. Preferential claim; not assignable or subject to attachment; attorney's fees.—Any person entitled to weekly payments under the plan against any employer shall have the same preferential claim therefor against the assets of the employer as now allowed by law for a claim by such person against such employer for unpaid wages or personal services. Weekly payments due under the plan shall not be assignable or subject to attachment, levy or execution. No claim of an attorney for any contingent interest in any recovery under the plan for services in securing such recovery shall be

an enforceable lien thereon, unless the amount of the same be approved in writing by a justice of the supreme court, or in case the same is tried in any court, before the justice presiding at such trial. [*Added by L. 1910, ch. 352.*]

§ 210. Cancellation of consent.—When a consent to the plan shall have been filed in the office of the county clerk as herein provided, it shall be binding upon both parties thereto as long as the relation of employer and employee exists between the parties, and expire at the end of such employment, but it may at any time be canceled on sixty days' notice in writing from either party to the other. Such notice of cancellation shall be effective only if served personally or sent by registered letter to the last known post-office address of the party to whom it is addressed, but no notice of cancellation shall be effective as to a claim for injury occurring previous thereto. [*Added by L. 1910, ch. 352.*]

§ 211. Reports of compensation plan.—Each employer who shall sign with any employee a consent to the plan shall, within thirty days thereafter, file with the commissioner of labor a statement thereof, signed by such employer, which shall show (a) the name of the employer and his post-office address, (b) the name of the employee and his last known post-office address, (c) the date of, and office where the original consent is filed, (d) the weekly wage of the employee at the time the consent is signed; unless such statement is duly filed, such consent of the employee shall not be a bar to any proceeding at law commenced by the employee against the employer. [*Added by L. 1910, ch. 352.*]

§ 212. Reports by employer.—Each employer of labor in this state who shall have entered into the plan with any employee shall, on or before the first day of January, nineteen hundred and eleven, and thereafter and at such times as may be required by the commissioner of labor, make a report to such commissioner of all amounts, if any, paid by him under such plan to injured employees, stating the name of such employees, and showing separately the amounts paid under agreement with the employees, and the amounts paid after proceedings at law, and the proceedings at law under the plan then pending. Such reports shall be verified by the employer or a duly authorized agent in the same manner as affidavits. [*Added by L. 1910, ch. 352.*]

ARTICLE 14-a

[Added by L. 1910, ch. 674]

Workmen's Compensation in Certain Dangerous Employments

[*This article was held unconstitutional by the Court of Appeals in Ives v. South Buffalo Ry. Co., 201 N. Y. 271 (1911). The article was repealed by L. 1913, ch. 816, § 130, and L. 1914, ch. 41, § 130. In its place has been enacted the Workmen's Compensation Law, which see, p. 223, post.*]

ARTICLE 15

Employment of Children in Street Trades

Section 220. Prohibited employment of children in street trades.

221. Permit and badge for children engaged in street trades, how issued.

222. Contents of permit and badge.

223. Regulations concerning badge and permit.

224. Limit of hours.

225. Enforcement of article.

226. Violation of this article, how punished.

227. Punishment of parent, guardian or other person contributing to the delinquency of children.

§ 220. Prohibited employment of children in street trades.—No male child under twelve, and no girl under sixteen years of age, shall in any city of the first, second or third class sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place. [As am'd by L. 1913, ch. 618.]

Relative to employment of minors in mercantile establishments or as messengers or newsboys, see §§ 161–161-b, *ante*.

This section does not apply to boys employed by newspapers as carriers to deliver papers. Opinion of Attorney-General, July 7, 1913.

§ 221. Permit and badge for children engaged in street trades, how issued.—No male child under fourteen years of age shall sell or expose or offer for sale said articles unless a permit and badge as hereinafter provided shall have been issued to him by the district superintendent of the board of education of the city and school district where said child resides, or by such other officer thereof as may be officially designated by such board for that purpose, on the application of the parent, guardian or other person having the custody of the child desiring such permit and badge, or in case said child has no parent, guardian or custodian then on the application of his next friend, being an adult. Such permit and badge shall not be issued until the officer issuing the same shall have received, examined, approved and placed on file in his office satisfactory proof that such male child is of the age of twelve years or upwards, and shall also have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of normal development of a child of his age and physically fit for such employment, and that said principal or chief executive officer approves the granting of a permit and badge to such child. No such permit or badge shall be valid for any purpose except during the period in which such proof and written statement shall remain on file, nor shall such permit or badge be authority beyond the period fixed therein for its duration.

After having received, examined and placed on file such papers the officer shall issue to the child a permit and badge. Principals or chief executive officers of schools in which children under fourteen years are pupils shall keep complete lists of all children in their schools to whom a permit and badge as herein provided have been granted. [*As am'd by L. 1913, ch. 618.*]

§ 222. Contents of permit and badge.—Such permit shall state the date and place of birth of the child, the name and address of its parent, guardian, custodian or next friend, as the case may be, and describe the color of hair and eyes, the height, weight and any distinguishing facial mark of such child, and shall further state that the papers required by the preceding section have been duly examined and filed; and that the child named in such permit has appeared before the officer issuing the permit. The badge furnished by the officer issuing the permit shall bear on its face a number corresponding to the number of the permit, and the name of the child. Every such permit, and every such badge on its reverse side, shall be signed in the presence of the officer issuing the same by the child in whose name it is issued. [*As am'd by L. 1913, ch. 618.*]

§ 223. Regulations concerning badge and permit.—The badge provided for herein shall be worn conspicuously at all times by such child while so working; and all such permits and badges shall expire annually on the first day of January. The color of the badge shall be changed each year. No child to whom such permit and badge are issued shall transfer the same to any other person nor be engaged in any city of the first, second or third class as a newsboy, or shall sell or expose or offer for sale newspapers, magazines or periodicals in any street or public place without having conspicuously upon his person such badge, and he shall exhibit the same upon demand at any time to any police, or attendance officer. [*As am'd by L. 1913, ch. 618.*]

§ 224. Limit of hours.—No child to whom a permit and badge are issued as provided for in the preceding section shall sell or expose or offer for sale any newspapers, magazines or periodicals after eight o'clock in the evening, or before six o'clock in the morning. [*As am'd by L. 1913, ch. 618.*]

§ 225. Enforcement of article.—In cities of the first, second or third class, police officers, and the regular attendance officers appointed by the board of education, who are hereby vested with the powers of peace officers for the purpose, shall enforce the provisions of this article. [*As am'd by L. 1913, ch. 618.*]

§ 226. Violation of this article, how punished.—Any child who shall, in any city of the first, second or third class, sell or expose or offer for sale newspapers, magazines or periodicals in violation of the provisions of this article may be deemed and adjudged in need of the care and protection of the state, and if over seven years of age may be adjudged guilty of juvenile delinquency. A child violating the provisions of this act may be arrested and in the city of New York be brought before a children's court and in any other city be brought before a court or magistrate having jurisdiction to commit a child to an incorporated charitable reformatory or other institution and be dealt with according to law. If any such child is committed to an institution, it shall, when practicable, be committed to an institution governed by the same religious faith as the parents of such child. The permit and

badge of any child who violates the provisions of this article may be revoked by the officer issuing the same, upon the recommendation of the principal or chief executive officer of the school which such child is attending, or upon the complaint of any police officer or attendance officer, and such child shall surrender the permit and badge so revoked upon the demand of any attendance officer or police officer charged with the duty of enforcing the provisions of this article. The refusal of any child to surrender such permit and badge, upon such demand, or the sale or offering for sale of newspapers, magazines or periodicals in any street or public place by any child after notice of the revocation of such permit and badge shall be deemed a violation of this article and shall subject the child to the penalties provided for in this section. [*As am'd by L. 1913, ch. 618.*]

§ 227. Punishment of parent, guardian or other person for contributing to the delinquency of children.—The parent, guardian or other person having the custody of a child, who omits to exercise reasonable diligence to prevent such child from violating the provisions of this act, shall be guilty of a misdemeanor and shall be dealt with as provided by section four hundred and ninety-four of the penal law. In any such proceedings against any such parent, guardian or other person having custody of such child, proof of the presence of such child in the public streets engaged in the sale or exposure or offering for sale of newspapers, magazines or periodicals in violation of the provisions of this article, shall be deemed *prima facie* proof of the lack of reasonable diligence in the control of such child by such parent, guardian or custodian, to prevent such offense by such child. [*Added by L. 1913, ch. 618.*]

ARTICLE 15-A

[Explosives]

[Not applicable to New York City. Added by L. 1915, ch. 234. For rules governing the use of explosives in mines, tunnels and quarries, see pp. 103, 105, ante.]

Section 230. Definition of explosives.

231. General regulations.

232. Explosives kept in suitable containers.

233. Magazines.

234. Caps not kept in magazine.

235. Reports.

236. Transportation.

237. Records of sale.

238. Exceptions.

239. Firearms.

239-a. Penalties.

§ 230. Definition of explosives.—As used in this article,

1. The term "explosive" or "explosives," means and includes any chemical compound or any mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator, of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects to contiguous objects or of destroying life or limb, but not including colloided nitro-cellulose in sheets or rods or grains not under one-eighth of an inch in diameter, wet nitro-cellulose containing twenty per centum or more moisture and wet nitro starch containing twenty per centum or more moisture and wet picric acid containing or being in ten per centum or more moisture. For the purposes of this article manufactured articles shall not be held to be explosives when the individual units contain explosives in such limited quantity, of such nature, or in such packing, that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb or property by fire, by friction, by concussion, by percussion or by detonator, such as fixed ammunition for small arms, fire-crackers, safety fuse, matches, et cetera.

2. The term "highway" means and includes any public street or public highway, and the term "railway" means and includes any public steam, electric or other railroad.

3. The term "building" whenever used in sections two hundred and thirty to two hundred and thirty-seven, inclusive, means and includes only any building regularly occupied in whole or in part as a habitation for human beings, and any church, schoolhouse, railway station or other building where people are accustomed to assemble, but not including the buildings of a manufacturing plant where the business of manufacturing explosives is carried on.

4. The term "person" means and includes corporations and joint-stock associations, as well as natural persons.

5. The term "factory building" means any building or other structure containing explosives, in which the manufacture of explosives or any part of the manufacture is carried on.

6. The term "magazine" means and includes any building or other structure used to store explosives.

7. The term "efficient artificial barricade" means an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet.

§ 231. General regulations.—No person shall manufacture, have, keep or store explosives except in compliance with this article. The quantity of explosives that may be lawfully had, kept or stored in any factory building or magazine shall depend upon the distance that such factory building or magazine is situated from buildings, railways or highways, and the protection offered by natural or efficient artificial barricades to such buildings, railways or highways. Whenever any of the quantities given in column one of the quantity and distance table hereinafter set forth is had, kept or stored in any factory building or magazine in this state, the distance that any quantity given in column one of such table may be lawfully had, kept or stored from buildings, is the distance set opposite such quantity in column two of such table, and the distance that any quantity given in column one of such table may be lawfully had, kept or stored from railways, is the distance set opposite such quantity in column three of such table, and the distance that any quantity given in column one of such table may be lawfully had, kept or stored from highways, is the distance set opposite such quantity in column four of such table. The quantity and distance table governing the making, keeping or storing of explosives is as follows:

QUANTITY AND DISTANCE TABLE

Column 1		Column 2	Column 3	Column 4		
2,000,000	3,500,000	6,000	7,000	1,610	970	490
3,500,000	4,000,000	7,000	8,000	1,660	1,000	500
4,000,000	4,500,000	8,000	9,000	1,700	1,030	510
4,500,000	5,000,000	9,000	10,000	1,740	1,040	520
5,000,000	7,500,000	10,000	15,000	1,780	1,070	530
7,500,000	10,000,000	15,000	20,000	1,950	1,170	580
10,000,000	12,500,000	20,000	25,000	2,110	1,270	630

QUANTITY AND DISTANCE TABLE — *Concluded*

Column 1				Column 2	Column 3	Column 4
Quantity that may be kept or stored from nearest building, highway or railroad				Distance from nearest building	Distance from nearest railway	Distance from nearest highway
Blasting and electric blasting caps		Other explosives				
Number over	Number not over	Pounds over	Pounds not over	Feet	Feet	Feet
12,500,000	15,000,000	25,000	30,000	2,260	1,360	680
15,000,000	17,500,000	30,000	35,000	2,410	1,450	720
17,500,000	20,000,000	35,000	40,000	2,550	1,530	760
.....	40,000	45,000	2,680	1,610	800
.....	45,000	50,000	2,800	1,680	840
.....	50,000	55,000	2,920	1,750	880
.....	55,000	60,000	3,030	1,820	910
.....	60,000	65,000	3,130	1,880	940
.....	65,000	70,000	3,220	1,940	970
.....	70,000	75,000	3,310	1,990	1,000
.....	75,000	80,000	3,390	2,040	1,020
.....	80,000	85,000	3,460	2,080	1,040
.....	85,000	90,000	3,520	2,120	1,060
.....	90,000	95,000	3,580	2,150	1,080
.....	95,000	100,000	3,630	2,180	1,090
.....	100,000	125,000	3,670	2,200	1,110
.....	125,000	150,000	3,800	2,280	1,140
.....	150,000	175,000	3,930	2,360	1,180
.....	175,000	200,000	4,060	2,440	1,220
.....	200,000	225,000	4,190	2,520	1,260
.....	225,000	250,000	4,310	2,590	1,300
.....	250,000	275,000	4,430	2,660	1,340
.....	275,000	300,000	4,550	2,730	1,380

No quantity in excess of three hundred thousand pounds shall be had, kept or stored in any factory building or magazine in this state. Whenever the building, railway or highway to be protected is effectually screened from the factory building or magazine, where explosives are had, kept or stored, either by natural features of the ground, or by an efficient artificial barricade of such height that any straight line drawn from the top of any side wall of the factory building or magazine, to any part of the building to be protected will pass through such intervening natural or efficient artificial barricade, and any straight line drawn from the top of any side wall of the factory building or magazine to any point twelve feet above the center of the railway or highway to be protected will pass through such intervening natural or efficient artificial barricade, the applicable distance given in columns two, three and four of the quantity and distance table may be reduced one-half.

§ 232. Explosives kept in suitable containers.— Except only at a factory building no person shall have, keep or store explosives at any place within this state unless such explosives are completely enclosed and encased in tight metal, wooden or fibre containers, and, except while being transported or in the custody of a common carrier awaiting shipment or pending delivery to a consignee, shall be kept and stored in a magazine constructed and operated as provided in section two hundred and thirty-three of this article, and no person having explosives in his possession or control shall, under any circumstances,

permit or allow any grains or particles to be or remain on the outside or about the containers in which such explosives are held. All containers in which explosives are held shall be plainly marked with the name of the explosives contained therein.

§ 233. **Magazines.**—Magazines in which explosives may lawfully be kept or stored shall be of two classes, as follows:

(a) Magazines of the first class shall consist of those containing explosives exceeding fifty pounds, and shall be constructed of brick, concrete, iron or wood covered with iron, and shall have no openings except for ventilation and entrance. The doors of such magazine must at all times be kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. Every such magazine shall have sufficient openings for ventilation thereof, which must be screened in such manner as to prevent the entrance of sparks of fire through the same. Upon each side and each end of such magazine, or upon its barricade, there shall at all times be kept conspicuously posted a sign, with words "Magazine — Explosives — Dangerous" legibly printed thereon in letters not less than six inches high. No matches or fire of any kind shall at any time be permitted in any such magazine. No package of explosives shall at any time be opened in or within fifty feet of any magazine, nor shall any open package of explosives be kept therein. Magazines in which more than fifty pounds of explosives are kept and stored must be detached, and those where more than five thousand pounds are kept and stored must be located at least two hundred feet from any other magazine.

(b) Magazines of the second class shall be made of fireproof material, or wood covered with sheet iron, and not more than fifty pounds of explosives shall at any time be kept or stored therein, and, except when necessarily opened for use by authorized persons, shall at all times be kept securely locked. Upon each such magazine there shall at all times be kept conspicuously posted a sign, with words "Magazine — Explosives — Dangerous" legibly printed thereon, and not more than two such magazines shall be had or kept in any building.

§ 234. **Caps not kept in magazine.**—No blasting caps, or other detonating or fulminating caps or detonators, shall be kept or stored in any magazine in which explosives are kept or stored.

§ 235. **Reports.**—All persons engaged in keeping or storing explosives, who shall not have heretofore made a report to the state fire marshal as required by section three hundred and sixty-three of the insurance law, now repealed, and all persons engaging in keeping or storing explosives after the provisions of this section take effect shall, before engaging in the keeping or storing of explosives, make a report to the commissioner of labor on blanks to be furnished by him stating:

1. The location of the magazine, if then existing, or in case of a new magazine, the proposed location of such magazine.

2. The kind of explosives that are kept or stored or intended to be kept or stored and the maximum quantity that is intended to be kept or stored thereat.

3. The distance that such magazine is located or intended to be located from the nearest buildings and highways.

The commissioner of labor shall, as soon as may be after receiving such report, cause an inspection to be made of the magazine, if then constructed, and in the case of a new magazine, as soon as may be after same is constructed. If upon such inspection the magazine is found to be constructed in accordance with the specifications provided in section two hundred and thirty-three of this article the commissioner of labor shall determine the amount of explosives that may be kept or stored in such magazine by reference to the quantity and distance table set forth in section two hundred and thirty-one of this article, and shall issue a certificate to the person applying therefor, showing compliance with the provisions of this article, which certificate shall set forth the maximum quantity of explosives that may be had, kept or stored in said magazine. Such certificate of compliance shall be valid until cancelled for cause as hereinafter provided. Whenever by reason of change in the physical conditions surrounding said magazine at the time of the issuance of the certificate of compliance therefor, such as the erection of buildings nearer said magazine or the operation of railways, or the opening of highways, the commissioner of labor shall modify or cancel such certificate in accordance with the changed conditions. Whenever any person to whom a certificate of compliance has been issued by the state fire marshal or commissioner of labor keeps or stores in the magazine covered by such certificate of compliance any quantity of explosives in excess of the maximum amount set forth in such certificate of compliance issued therefor, or whenever any person fails for thirty days to pay the annual license fee hereinafter provided after the same becomes due, the commissioner of labor is authorized to cancel such certificate of compliance and to order the removal of all explosives stored in said magazine.

Every person engaging in the keeping or storing of explosives shall pay an annual license fee for each magazine maintained, to be graduated by the commissioner of labor according to the quantity kept or stored therein, of not less than five dollars nor more than twenty-five dollars. Said license fee shall be payable in advance to the commissioner of labor and by him paid to the state treasurer.

L. 1915, ch. 234, § 2, transfers to the commissioner of labor existing reports, records, etc., relative to explosives, continued in force license fees established by the state fire marshal until changed by the commissioner of labor and exempts persons who have paid annual fees to state fire marshal from additional payments.

§ 236. Transportation.—Every vehicle while carrying explosives shall display upon an erect pole on the front end of such vehicle and at such height that it shall be visible from all directions a red flag with the word "danger" printed, stamped or sewed thereon in white letters. Such flag shall be at least eighteen inches by thirty inches in size, and the letters thereon shall be at least twelve inches in height.

(a) It shall be unlawful for any person in charge of a vehicle containing explosives to smoke in or upon such vehicle, to drive the vehicle while intoxicated, to drive the vehicle or to conduct himself in a careless or reckless manner or to load or unload such vehicle in a careless or reckless manner or while smoking or intoxicated.

(b) It shall be unlawful for any person to place or carry, or cause to be placed or carried in or upon any vehicle containing explosives any metal tool or other piece of metal.

(c) It shall be unlawful for any person to place or carry in or upon a vehicle containing explosives any exploders, detonators, blasting caps or other explosive material, or to carry in or upon any such vehicle any matches or any mechanical device for producing spark, flame or heat.

Nothing contained in this article shall apply to explosives while being transported upon vessels or railroad cars in conformity with the regulations adopted by the interstate commerce commission, nor to the transportation or use of blasting explosives for agricultural purposes or in quantities not exceeding five pounds at any one time.

§ 237. **Records of sale.**—Every person selling or giving away explosives within this state shall keep at all times an accurate journal or book of record in which must be entered from time to time, as it is made, each and every sale made by such person in the course of business, or otherwise, of any quantity of explosives. Such journal or record book must show in a legible writing, to be entered therein at the time, a complete history of each transaction stating the name and quantity of explosives sold, name, place of residence and business of the purchaser, name of individual to whom delivered, with his or her address. Such journal or book of record must be kept by the person so selling explosives in his or their principal office or place of business, at all times subject to the inspection and examination of the commissioner of labor, his deputies, and the police authorities of the county or municipality where the same is situated, on proper demand therefor. Nothing in this section, however, shall apply to persons selling or giving away explosives in quantities of five pounds or less at any one time.

§ 238. **Exceptions.**—Nothing contained in this article in sections two hundred and thirty to two hundred and thirty-seven, inclusive, shall be deemed to include gasoline, kerosene, naphtha, turpentine or benzine, nor shall any of the provisions of this article fifteen-a apply to cities of this state having more than one million inhabitants. In any other city of the state having a department of public safety and connected therewith a bureau of explosives or combustibles, the provisions of this article shall be enforced by such local authorities.

§ 239. **Firearms.**—No person shall discharge any firearms within five hundred feet of any magazine or factory, except that the provisions of this section shall not apply to the testing of firearms or explosives in or upon the premises of any manufacturing plant engaged in the manufacture of firearms or explosives. The method of testing all firearms in any manufacturing plant engaged in the business of manufacturing firearms shall be subject to the approval of the commissioner of labor.

§ 239-a. **Penalties.**—Whoever fails to comply with or violates any provision of this article shall be guilty of a misdemeanor.

ARTICLE 16

Laws Repealed; When to Take Effect

Section 240. Laws repealed.

241. When to take effect.

§ 240. Laws repealed.—Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed.

§ 241. When to take effect.—This chapter shall take effect immediately.*

SCHEDULE OF LAWS REPEALED

Laws of	Chapter	Section
1833.....	87.....	All
1853.....	641.....	All
1867.....	856.....	All
1867.....	969.....	All
1868.....	717.....	2, part suspending operation of L. 1867. Ch. 969, § 10, last two sentences
1869.....	822.....	2, part amending L. 1867, Ch. 969
1870.....	385.....	All
1871.....	934.....	3
1874.....	614.....	All
1875.....	472.....	All
1881.....	298.....	All
1883.....	356.....	All
1885.....	314.....	All
1885.....	376.....	All
1886.....	151.....	All
1886.....	205.....	All
1886.....	409.....	All, except § 21, as added by L. 1887. Ch. 462. § 4
1886.....	410.....	All
1887.....	63.....	All
1887.....	323.....	All
1887.....	462.....	All
1887.....	529.....	All
1888.....	437.....	All
1889.....	380.....	All
1889.....	381.....	All
1889.....	385.....	All
1889.....	560.....	All
1890.....	218.....	All
1890.....	388.....	All
1890.....	394.....	All
1890.....	398.....	All
1891.....	214.....	All
1892.....	517.....	All

* February 17, 1909.

Laws of	Chapter	Section
1892.....	667.....	All
1892.....	673.....	All
1892.....	711.....	All
1893.....	173.....	All
1893.....	219.....	All
1893.....	339.....	All
1893.....	691.....	All
1893.....	715.....	All
1893.....	717.....	All
1894.....	277.....	All
1894.....	373.....	All
1894.....	622.....	All
1894.....	698.....	All
1894.....	699.....	All
1895.....	324.....	All
1895.....	413.....	All
1895.....	518.....	All
1895.....	670.....	All
1895.....	765.....	All
1895.....	791.....	All
1895.....	899.....	All
1896.....	271.....	All
1896.....	384.....	All
1896.....	672.....	All
1896.....	789.....	All
1896.....	931.....	1-4, 6, 7
1896.....	936.....	All
1896.....	982.....	All
1896.....	991.....	All
1897.....	148.....	All
1897.....	415.....	All
1899.....	191.....	All
1899.....	192.....	All
1899.....	375.....	All
1899.....	558.....	All
1899.....	567.....	All
1900.....	298.....	All
1900.....	533.....	All
1901.....	9.....	All
1901.....	306.....	All
1901.....	475.....	All
1901.....	477.....	All
1901.....	478.....	All
1902.....	88.....	All
1902.....	454.....	All
1902.....	600.....	All
1903.....	151.....	All

Laws of	Chapter	Section
1903.....	184.....	All
1903.....	255.....	All
1903.....	561.....	All
1904.....	291.....	All
1904.....	523.....	All
1904.....	550.....	All
1905.....	493.....	All
1905.....	518.....	All
1905.....	519.....	All
1905.....	520.....	All
1906.....	129.....	All
1906.....	158.....	All
1906.....	178.....	All
1906.....	216.....	All
1906.....	275.....	All
1906.....	316.....	All
1906.....	366.....	All
1906.....	375.....	All
1906.....	401.....	All
1906.....	490.....	All
1906.....	506.....	All
1907.....	83.....	All
1907.....	243.....	All
1907.....	286.....	All
1907.....	291.....	All
1907.....	399.....	All
1907.....	418.....	All
1907.....	485.....	All
1907.....	490.....	All
1907.....	505.....	All
1907.....	507.....	All
1907.....	588.....	All
1907.....	627.....	All
1908.....	89.....	All
1908.....	174.....	All
1908.....	426.....	All
1908.....	442.....	All
1908.....	443.....	All
1908.....	520.....	All

INDUSTRIAL CODE

[Rules and Regulations adopted by the State Industrial Board and continued by L. 1915, ch. 674, § 6, in full force until modified, superseded or repealed by the Industrial Commission. Sections 51-a and 52 of the Labor Law regulate the enactment and publication of the Industrial Code and define the general rule-making power of the Industrial Commission. Section 1275 of the Penal Law, p. 222, post, prescribes the general penalty for violations of the Industrial Code. The Sanitary Code of the Public Health Council contains provisions affecting labor.]

EMPLOYMENT OF WOMEN IN CANNERIES

[Supplementary to Labor Law, § 78, subd. 3; originally adopted and effective, June 27, 1913; readopted with verbal changes, June 19, 1914.]

Rule 1.—Pursuant to subdivision 3, section 78 of the Labor Law, and upon application to be made by the employer to the Commissioner of Labor, women eighteen years of age and upwards may be employed or permitted to work in canning or preserving perishable products in fruit and canning establishments between the twenty-fifth day of June and the fifth day of August, nineteen fourteen, in excess of ten hours in any one day and sixty hours in any one week, but not in excess of twelve hours in any one day nor sixty-six hours in any one week nor six days in any one week, upon compliance with the following regulations:

A woman may be so employed

1. At any process or part of the work which does not require continuous standing while at work, except that she shall not be so employed in the processes of labeling or packing cans;

2. Provided that every floor on which such woman is employed be drained free of liquids; but whenever any such floor cannot be kept entirely free from liquids, slat platforms shall also be furnished upon which such woman may rest her feet while at work;

3. Permits granting exemption under these rules and regulations shall be revocable by the Commissioner of Labor for violation of any of the above regulations.

ENCLOSURE OF FACTORY STAIRWAYS

[Supplementary to Labor Law, § 79-b; adopted August 28, 1913; effective October 1, 1913.]

The following resolution was adopted by the State Industrial Commission on November 18, 1915:

Resolved, That the State Industrial Commission hereby amends Rule 2 of the Industrial Code by striking out the word "five" after the words "In all factory buildings less than", and substituting in lieu thereof the word *six*.

Rule 2.—In all factory buildings less than five stories in height, in which there are more than twenty-five persons employed above the ground floor, or in which, regardless of the number of persons employed, articles, goods, wares, merchandise or products of combustible material are stored, packed, manufactured, or in the process of manufacture, all interior stairways, serving as required means of exit, and the landings, platforms and passageways connected therewith, shall be enclosed on all sides by partitions of fire-resisting material extending continuously from the basement.

Where the stairway extends to the top floor of the building such partitions shall extend to three feet above the roof. All openings in such partitions shall be provided with self-closing doors constructed of fire resisting material,

except where such openings are in the exterior wall of the building. The bottom of the enclosure shall be of fireproof material at least four inches thick, unless the fire-resisting partitions extend to the cellar bottom.

Such enclosure of stairways shall not be required in factory buildings in which there is an exterior enclosed fireproof stairway or a horizontal exit serving as a required means of exit, as defined in section 79-f, subdivisions 8 and 9 of the Labor Law.

Where approved automatic sprinklers are installed throughout such buildings, such enclosure of stairways shall not be required unless more than eighty persons are employed above the ground floor.

STORAGE OF COMBUSTIBLE MATERIAL ABOUT FACTORY STAIRWAYS

[Supplementary to Labor Law, § 79-a to 79-f; adopted August 28, 1913; effective October 1, 1913]

Rule 3.—In all factory buildings no articles or wares of a combustible nature shall be kept or stored inside the limits of any stairway enclosure or unenclosed stairway, or on the landings, platforms or passageways connected therewith, nor shall such articles or wares be kept or stored under any stairway unless such stairway and any partitions or doors thereunder are constructed of or covered with incombustible material.

SANITATION OF FACTORIES AND MERCANTILE ESTABLISHMENTS

[Adopted March 11, 1915; effective April 15, 1915]

A. SANITARY CONVENIENCES

I. TOILET ROOMS, WATER-CLOSETS AND URINALS

[Supplementary to Labor Law, § 88-a, subds. 5, 7, § 168-e, subd. 6]

1. DEFINITIONS

Rule 100.—The rules on sanitation shall apply to all factories and mercantile establishments except as otherwise provided in rules for special industries.

The term "approved" material shall mean material approved by the Industrial Board. (A list of such approved materials will be on file in the Department of Labor.)

The term "water-closet compartment" shall mean an enclosure surrounding an individual water-closet.

The term "toilet-room" shall mean any room containing more than one water-closet or urinal or containing one or more water-closet compartments.

The term "hereafter installed" shall mean installed after April 15, 1915.

The term "existing" shall mean installed before April 15, 1915.

2. WATER-CLOSETS REQUIRED AND SEX DESIGNATION

[Supplementary to Labor Law, § 88-a, subds. 1, 2, § 94, § 168-e, subds. 1, 2]

Rule 101.—Separate water-closet compartments or toilet-rooms shall be provided for each sex in every factory where both males and females are employed. Such water-closets shall be designated for the use of males or females and clearly marked "Men" or "Women" at the entrance of the toilet-room or of the water-closet compartment if not located in a toilet-room.

3. NUMBER

Rule 102.—Water-closets shall be provided for each sex according to the following table. The number of water-closets to be provided for each sex shall in every case be based upon the maximum number of persons of that sex employed at any one time on the given floor, or floors, or in the given building for which such closets are provided.

No. of persons	Closets	Ratio
1-15	1	(1 for 15)
16-35	2	(1 for 17½)
36-55	3	(1 for 18⅓)
56-80	4	(1 for 20)
81-110	5	(1 for 22)
111-150	6	(1 for 25)
151-190	7	(1 for 27 1/7)

and thereafter at the rate of 1 closet for every 30 persons.

Whenever a urinal is supplied, one closet less than the required number may be provided for males, when more than twenty (20) are employed; except that the number of closets in such cases may not be reduced to less than two-thirds ($\frac{2}{3}$) the required number.

4. LOCATION

Rule 103.—Water-closets shall be readily accessible to the persons using them. No water-closet shall be located more than one floor above or below the regular place of work of the persons using same, except in refrigerating plants, flour or cereal mills or elevators or such other classes of buildings as may be specified by the Industrial Board. When passenger elevators are provided in sufficient numbers and their use permitted for taking employees to toilet-room floors, this rule as to location shall not apply.

Rule 104.—Where fifteen (15) or more persons of the same sex are employed on one floor of a tenant-factory having no elevator service for the use of such employees, the water-closets for their use, if located off public hallways or other parts of the building used in common, shall be provided on such floor; except that this rule shall not apply where any employer maintains his factory on two or more successive floors of a tenant-factory, and except that the Commissioner may issue a permit allowing the use of toilets for males and females on alternate floors.

It is recommended that the water-closets be located, wherever possible, on the same floor as the place of work and that there should be a number of small installations rather than a few large ones.

5. SCREENING

[*Supplementary to Labor Law, § 88-a, subd. 2, § 168-e, subd. 2*]

a. Existing Installations

Rule 105.—The entrance to every existing water-closet compartment which opens directly into a workroom shall be screened from view by a vestibule or a stationary screen, extending to a height of not less than six (6) feet, and not less than two (2) feet wider than the entrance door wherever space permits.

Rule 106.—Where existing water-closets for males and females are in adjoining compartments or toilet-rooms and the entrance doors are within ten (10) feet or less of each other, a stationary screen not less than six (6) feet high and either T or L shape shall be built across the doors.

b. New Installations

Rule 107.—Every water-closet compartment hereafter installed shall be located in a toilet-room, or shall be built with a vestibule and door to screen the interior from view, and the entrance shall be remote from the entrance to a toilet for the opposite sex.

c. All Installations

Rule 108.—Where persons of both sexes are employed, the water-closets for each sex shall be so placed or so screened that they shall not be visible, even when the door of the toilet-room or water-closet compartment is open, from any place where persons of the other sex have to work or pass.

Rule 109.—The door of every toilet-room and of every water-closet compartment, which is not located in a toilet-room, shall be fitted with an effective self-closing device to keep it closed.

Rule 110.—No water-closet or urinal compartment may be maintained in connection with rooms in which food products are manufactured or in which unwrapped food products are packed or sold, unless such compartment is separated from such rooms by a vestibule with door. The doors of both compartment and vestibule shall be provided with self-closing devices. During the period between May 1st and November 1st, all windows in toilet-rooms, water-closet and urinal compartments provided for such workrooms, shall have wire screens, not coarser than fourteen (14) mesh wire, and such screens shall be kept in good repair.

6. SEPARATION

[*Supplementary to Labor Law, § 88-a, subd. 2, § 168-e, subd. 2*]

Rule 111.—Every partition separating a water-closet compartment provided for males from a compartment provided for females shall extend from the floor to the ceiling and there shall be no direct connection between the compartments either by door or other opening. In existing installations, metal or tile covered wooden partitions may be used, the covering of which shall extend to a height of at least seven (7) feet. Such partitions hereafter installed shall measure not less than two and a half (2½) inches between the finished surfaces of the same.

7. CONSTRUCTION

a. All Installations

Rule 112.—The outside partitions of every toilet-room and of every water-closet compartment not located in a toilet-room shall be of solid construction and shall extend to the ceiling or the area shall be independently ceiled over. Above the level of six (6) feet the outside walls of a toilet-room may be provided with glass that is translucent but not transparent. In foundries, rolling mills, blast furnaces, smelting and metal refining works, and such other classes of factories as are specified by the Industrial Board, the partitions enclosing

toilet facilities shall not be required to be carried to the ceiling, provided they are carried to a height of not less than seven (7) feet, and provided such facilities are located in rooms which females are not allowed to enter.

[*Supplementary to Labor Law, § 88-a, subd. 4, § 168-e, subd. 7*]

Rule 113.— Unless constructed of marble, cement plaster, tile, galvanized iron, glazed brick or other glazed material or concrete with admixture of waterproofing material, every toilet-room and water-closet compartment, including the ceiling, shall be kept well painted with a light colored nonabsorbent paint, varnish or other substance impervious to water.

Rule 114.— Every water-closet compartment used by females shall have a door fastened with a latch or lock. Dwarf doors may be used for water-closet compartments located in a toilet-room; if used by females they shall not be less than forty-eight (48) inches in height and the top of same shall not be less than sixty (60) inches from the floor. The Commissioner may require water-closet compartments used by males to be provided with doors.

b. New Installations

Rule 115.— The floor of every toilet-room hereafter installed and the side walls to a height of not less than six (6) inches shall be constructed with sanitary base and of material other than wood, which is impervious to moisture and which has a smooth surface. This material shall be marble, asphalt, Portland cement, with admixture of approved waterproofing material, tile, glazed brick or other approved waterproof material. The angle formed by the floor and the base shall be coved.

Rule 116.— Every water-closet compartment hereafter installed, except the door, shall be constructed to a height of not less than four (4) feet of material other than wood, which is impervious to moisture and has a smooth surface. This material shall be marble, tile, glazed brick, galvanized or enameled iron, Portland cement with admixture of approved waterproofing material, good quality slate oiled or otherwise made nonabsorbent, or other approved waterproof material. Where more than one water-closet is installed in a toilet-room, partitions between water-closets shall be provided and shall extend forward not less than fifteen (15) inches further than the fixture. Such partitions and also end sections, if standing free from wall, may be dwarf construction and may be built of wood if painted with nonabsorbent paint, varnish or other substance impervious to water. The top of same shall be not less than six (6) feet from the floor and extend not higher than one (1) foot from ceiling in toilet-rooms provided for females; and not less than five (5) feet from the floor when provided for males. A space of not less than six (6) and not more than fourteen (14) inches shall be allowed between the floor and the bottom of such partitions. The distance between such partitions shall be not less than twenty-eight (28) inches.

Rule 117.— Every water-closet compartment hereafter installed, if provided with a door, shall be not less than four (4) feet deep and for each water-closet there shall be provided not less than ninety (90) cubic feet of air space in the toilet-room or water-closet compartment.

8. WATER-CLOSET FIXTURES

[*Supplementary to Labor Law, § 88-a, subds. 3, 4, § 168-c, subds. 3-5*]

Rule 118.—Every water-closet hereafter installed shall have a rim flush bowl made of vitreous china or of first quality cast iron, porcelain enameled inside and outside, or of other approved material. Every such bowl shall be set entirely free and open from all enclosing woodwork, and shall be so installed that the space behind and below may be easily cleaned.

Rule 119.—Pan, plunger, washout and off-set water-closets shall not be permitted to be hereafter installed. Every such closet at present installed, if in foul or leaky condition, if not in working order, or if the bowl is cracked, shall be replaced by new installation, as prescribed in Rule 118.

Rule 120.—The connection between soil pipe and water-closet hereafter installed shall be made by means of a metal to metal closet floor flange. Putty, paste, gasket or slip-joint connections will not be permitted for water-closet or slop-sink connections.

Rule 121.—Every water-closet hereafter installed shall have a seat made of wood or other nonheat absorbing material, which shall be finished with varnish or other substance to make it impervious to moisture.

Rule 122.—Every water-closet shall be flushed from a separate water-supplied cistern, or by means of flush valve. Every flushing cistern hereafter installed shall use not less than three (3) gallons of water at each discharge. Every water-closet shall be discharged with sufficient force to clean the bowl at each flush and refill the seal with clean water.

Rule 123.—In future installations, long hopper closets will be permitted only where there is unavoidable exposure to frost, and with the written approval of the Industrial Board. They shall be of rim flush type and have a self-closing cover.

9. URINALS

Rule 124.—Except in existing installations where water-closets are provided according to Rule 102, without diminution for urinals, urinals shall be provided in the following proportion, where more than ten (10) males are employed at any one time: When ten (10) to forty (40) men are employed, one (1) urinal, and thereafter one (1) additional urinal for every sixty (60) men employed. Two (2) linear feet of slab urinal shall be considered equivalent to one individual urinal.

Rule 125.—Every urinal hereafter installed shall be made of material that is impervious to moisture. Cast iron, galvanized iron, sheet metal or steel urinals are prohibited unless coated with vitreous enamel. Where slate is used, it shall be of the first quality.

Rule 126.—Individual urinal stalls shall hereafter be installed and shall be provided with sides to give privacy. The sides and base of every urinal stall shall be made of material which is impervious to moisture and which has a smooth surface. The use of trough urinals in future installations is prohibited.

It is recommended that the wall or vertical slab urinal preferably made of vitreous ware be installed. When individual bowls are installed, it is recommended that they should be flushed by pedal action.

Rule 127.—The floor to a distance of not less than twenty-four (24) inches in front of all urinals shall be constructed of approved waterproof material and whenever new wall or vertical slab urinals are installed, the floor in front of the urinals shall slope toward the urinal drain.

Rule 128.—Every urinal shall be flushed from a separate water-supplied cistern or through flush valve. Every such cistern hereafter installed shall use no less than one (1) gallon of water for each discharge for every fixture or stall. In place of such discharge from a flush cistern or valve, water may be allowed to run continuously over slab urinals.

Rule 129.—In foundries, rolling mills, blast furnaces, smelting and metal refining works and such other classes of factories as are specified by the Industrial Board, urinals need not be enclosed with partitions provided that they are properly screened, and provided they are located in rooms which females are not allowed to enter. For every urinal fixture or its equivalent, not less than ninety (90) cubic feet of air space shall be provided whenever a urinal is located in a compartment or toilet-room.

10. HEATING

[*Supplementary to Labor Law, § 88-a, subd. 6, § 168-e, subd. 7*]

Rule 130.—Every toilet-room and water-closet compartment shall be kept heated during working hours to not less than fifty (50) degrees Fahrenheit from November first to April first. Heating facilities hereafter installed shall be so arranged as to permit thorough cleaning of floor and walls.

11. VENTILATION

a. Installations in New Buildings

Rule 131.—Every toilet-room or every water-closet or urinal compartment shall have a window opening directly to the outdoor air. No such window shall be less than one (1) foot wide nor have an area of less than six (6) square feet, measured between stop beads, for one (1) water-closet or urinal. For every additional such fixture, the area of such window shall be increased at least one (1) square foot. A skylight shall be deemed the equivalent of a window provided that it has fixed or movable louvres with openings of the net openable area prescribed for such window.

Every such window shall open upon a street or upon a yard or open space, uncovered at the top, which in its least horizontal dimension shall be at least one-tenth (1/10) the height of the highest abutting wall but in no case less than six (6) feet.

Rule 132.—In addition to the requirements of Rule 131 for window or skylight where under any special conditions the ventilation is inadequate, the Commissioner may require such other ventilation as may be necessary.

Rule 133.—The installation of water-closets or urinals with less window area than specified in Rule 131, or without direct connection with the outdoor air, will be permitted if a mechanical system of ventilation is provided, maintained and regularly operated, as follows: Such system shall consist of metal or smooth masonry ducts from the toilet-rooms or compartments arranged with fan or fans of sufficient capacity to exhaust a volume of not less than thirty-

five (35) cubic feet of air per minute for every water-closet or urinal. If the air is exhausted within two (2) feet of each fixture, this amount may be reduced to twenty-five (25) cubic feet of air per minute per fixture.

b. Installations in Old Buildings

[*Supplementary to Labor Law, § 88-a, subd. 4, § 168-e, subd. 5*]

Rule 134.—In existing buildings every toilet-room or every water-closet or urinal compartment shall be ventilated to the outdoor air by window, skylight or ventilating duct.

Rule 135.—Whenever any such toilet-room having more than two fixtures, either water-closets or urinals, is ventilated solely by ducts or whenever the window or skylight area is less than that required for new buildings by one-third ($\frac{1}{3}$) or more, positive ventilation complying with the requirements of Rule 133 shall be maintained. The Commissioner may modify this requirement for four (4) or less fixtures, or may require ventilation for two (2) or less fixtures, when necessary.

c. All Installations

Rule 136.—Every window or skylight shall be so constructed and maintained as to be easily opened at least one-half ($\frac{1}{2}$) of its required area.

NOTE: Windows or skylights should be kept partially open at all times during working hours, except when extreme weather conditions prevent.

Rule 137.—No ventilation shall be secured by means of openings to the outdoor air which will permit drafts endangering the health or comfort of employees.

Rule 138.—All exhaust fans shall discharge to the outdoor air at such point as not to cause offense to the occupants of the building or create any nuisance in the neighborhood. Whenever any airshaft used for ventilating toilet-rooms is covered by a skylight, the net area of openings in the skylight shall be equal to at least the required area of the airshaft.

12. ILLUMINATION

[*Supplementary to Labor Law, § 88-a, subd. 4, § 168-e, subd. 5*]

Rule 139.—Every toilet-room or water-closet compartment shall be so illuminated that all parts of the room and compartment are easily visible at all times during working hours. If daylight is not sufficient for this purpose, artificial illumination shall be maintained. The approaches to all water-closets and privies shall be kept well-lighted and free from incumbrances.

II. PRIVIES AND OTHER CLOSETS WITHOUT FLUSH

[*Supplementary to Labor Law, § 88-a, subd. 1, § 168-e, subd. 1*]

Rule 140.—After January 1, 1916, privy vaults will be permitted only after it has been shown to the satisfaction of the Commissioner that their use is absolutely necessary, and in no case will they be permitted for an establishment which employs a permanent force of twenty-five (25) or more employees. No other type of closet without water flush shall be permitted to be installed without approval of the Industrial Board, except that running streams may be used instead of privy vaults if the New York State Board of Health permits the use of such streams for this purpose.

Rule 141.—Every privy shall be water-tight and fly-proof and the walls of every privy vault hereafter built shall extend not less than twelve (12) inches above the surface of the surrounding ground.

Rule 142.—Every privy shall be ventilated by an unobstructed opening to the outdoor air, other than the door, which has an area of at least one hundred and forty-four (144) square inches, and every privy shall have a door. Every window and ventilating opening of a privy shall be protected by metal screens and every door shall be provided with a self-closing device to keep it closed.

Rule 143.—Every privy shall be kept clean and the contents of the vault shall be emptied or incinerated at least once a month and at more frequent intervals if necessary. In no case shall it be allowed to overflow. Removable receptacles or cans may be used instead of privy vaults if they are water tight and emptied whenever necessary to prevent overflowing. Dry sand, fine dry earth or lime shall be provided in a receptacle in every privy and used at frequent intervals to deodorize the contents of the vault.

Rule 144.—All privies shall be separate for the two sexes and marked "Men" and "Women" as required for water-closets in Rule 101 and shall be provided with individual seats according to the ratios in Rule 102.

Rule 145.—The entrance to every privy shall be screened by a vestibule or by a stationary screen at least two (2) feet wider than the entrance door, extending to a height of at least six and a half ($6\frac{1}{2}$) feet. Where privies for males and females are in adjoining compartments, there shall be a partition of a double layer of boards or a metal covered partition between the compartments, extending from the floor to the roof.

Rule 146.—Every establishment which is operated between November first and April first and which provides a privy for the use of its employees, shall be connected with such privy by means of a covered passageway so constructed that the employees in passing thereto or therefrom shall not be exposed to outdoor temperature. Every such privy shall be kept heated during working hours to at least fifty (50) degrees Fahrenheit.

Rule 147.—Every privy vault shall be located at least twenty-five (25) feet from any establishment in which food products are manufactured or sold unless otherwise permitted by the Commissioner.

III. WASHING FACILITIES AND WASHROOMS

[Supplementary to Labor Law, § 88, subd. 2, § 168-c]

1. NUMBER

Rule 148.—At least one (1) wash basin with water-supplied faucet shall be provided for every twenty (20) employees employed at any one time, provided, however, that when such facilities are provided for more than one hundred (100) employees, not less than one (1) additional basin may be provided for every additional twenty-five (25) such employees. Twenty (20) inches of sink with faucet shall be considered equivalent to one (1) basin. The Industrial Board may approve modifications of this rule for special industries or occupations.

[*Supplementary to Labor Law, § 88, subd. 2*]

Rule 149.—In all factories where lead, arsenic or other poisonous substances or injurious or noxious fumes, dust or gases are present, resulting from trades or processes which have been declared dangerous by the Industrial Board, the washing facilities shall include separate washrooms for males and females and not less than one (1) wash basin or its equivalent for every ten (10) employees, with running hot water, soap and individual towels. Either paper towels or an adequate daily supply of clean towels shall be supplied.

Rule 150.—The requirements specified in Rule 149 shall apply also to all establishments where food products are manufactured or unwrapped food products are packed or sold, except that the washing facilities may be supplied in the workroom. A notice shall be conspicuously posted adjacent to the washing facilities directing all employees to cleanse their hands before beginning work and after using the toilets.

2. CONSTRUCTION

Rule 151.—If separate washrooms are provided, the enclosing walls shall be of solid construction. In washrooms used by females, such walls shall be not less than seven (7) feet high, except that when washrooms used by males and females adjoin, the wall separating such rooms shall be carried to the ceiling. Where males only are employed, clear glass may be used in the walls of such rooms, but in rooms used by females, the glass, if used, shall be of approved translucency.

3. WASH BASINS AND SINKS

Rule 152.—Every wash basin hereafter installed shall be made of vitrified glazed earthenware, enameled iron or other glazed material impervious to water. Galvanized cast iron will be permitted for sinks.

4. LOCATION

Rule 153.—Unless the general washing facilities are on the same floor and in close proximity to the toilet-room, at least one (1) wash basin shall be provided in such room or adjacent thereto.

5. ILLUMINATION

[*Supplementary to Labor Law, § 88, subd. 2, § 168-c*]

Rule 154.—All basins and sinks shall be so illuminated that all parts are easily visible at all times during working hours. If daylight is not sufficient for this purpose, artificial illumination shall be maintained.

6. TOWELS

Rule 155.—The use of any towel or towels in common is prohibited.

Rule 156.—If paper towels are supplied, metal receptacles for used towels shall be provided.

7. FLOORS

Rule 157.—All floors under basins and sinks shall be kept sanitary and in good repair.

IV. DRESSING-ROOMS

[*Supplementary to Labor Law, § 88, subd. 3, § 168-d*]

1. FLOOR AREA

Rule 158.—In every factory or mercantile establishment where females are employed, not less than one (1) dressing-room for their exclusive use shall be provided. Where more than five (5) and not more than ten (10) females are employed, the floor space of such room or rooms shall be not less than sixty (60) square feet, and for each additional person not less than two (2) square feet shall be added thereto.

When a separate hospital or emergency room for the exclusive use of female employees who are sick or injured, is provided and maintained at all times in addition to such dressing room, or in case the floor area provided in toilet and washrooms is more than the required amount, a proportionate reduction in floor area of dressing-rooms may be made by the Commissioner.

It is recommended that dressing-rooms shall be provided on more than one (1) floor of every establishment and that they be located in close proximity to the toilet-rooms.

2. CONSTRUCTION

Rule 159.—The walls or partitions of every dressing-room shall be of solid construction, and shall be at least seven (7) feet high. Glass of approved translucency may be inserted in such walls or partitions. Every dressing-room shall be so constructed and maintained that privacy shall be secured at all times, and shall be provided with locker or a separate clothes hook for every female employee, unless such facilities are elsewhere provided.

3. VENTILATION

Rule 160.—Every dressing-room shall have at least one (1) window or skylight opening directly to the outdoor air or air shaft, which shall be so constructed and maintained as to be easily opened at least one-half ($\frac{1}{2}$) of its required area, except that in case a separate hospital or emergency room is provided and maintained at all times for the exclusive use of females, and such room has a window or skylight opening to the outdoor air, the dressing-room shall not be required to have such window or skylight.

Rule 161.—Every dressing-room, washroom or locker room enclosed by walls which extend to the ceiling, unless provided with windows which have an area opening directly to outdoor air, not less than one-tenth ($\frac{1}{10}$) of the floor area, shall have exhaust ventilation equal to not less than six (6) changes of air per hour at all times when such rooms are in use. A skylight shall be deemed the equivalent of a window provided that it has fixed or movable louvres with openings of the net openable area prescribed for such window. In any such room, enclosed by walls which do not extend to the ceiling, the Commissioner may require such ventilation as may be necessary.

4. HEATING AND ILLUMINATION

Rule 162.—Every dressing-room shall be heated to a temperature of not less than fifty-eight (58) degrees Fahrenheit, and shall be so lighted that all parts of the room are easily visible. If daylight is not sufficient for this purpose, artificial illumination shall be maintained at all times when the room is in use.

5. COUCHES

Rule 163.—At least one (1) couch or bed shall be provided in every factory or mercantile establishment for the use of females; where more than forty (40) and less than one hundred (100) females are employed, two (2) shall be provided; where more than one hundred (100) and less than two hundred and fifty (250) females are employed, three (3) shall be provided, and thereafter at least one (1) for every two hundred and fifty (250) employees. Unless a separate hospital or emergency room is provided for the use of female employees, a part of the dressing room shall be screened off and the couch or couches placed therein.

V. DRINKING WATER

[Supplementary to Labor Law, § 88, subd. 1, § 168-b]

Rule 164.—Drinking water shall be supplied at all times, in places accessible to employees, and shall be cold.

Rule 165.—The use of a common glass or a cup is prohibited. When sanitary drinking fountains are supplied, they shall be so constructed that a person shall drink from a stream or jet of water. An inverted faucet will be accepted as complying with this rule.

VI. MAINTENANCE

[Supplementary to Labor Law, § 88-a, subd. 6, § 168-e, subd. 7]

Rule 166.—All water-closet compartments and all toilet-rooms and all wash and dressing rooms and all privies and the floors, walls, ceilings and surface thereof, and all fixtures therein, and all water-closets and urinals, basins, and sinks shall at all times be kept and maintained in good order and repair and in clean, odorless and sanitary condition.

Rule 167.—In each toilet-room an adequate supply of toilet paper in proper holder shall be provided and it shall be of material which will not obstruct fixtures or plumbing.

[Supplementary to Labor Law, § 88-a, subd. 4, § 168-e, subd. 7]

Rule 168.—The enclosure of all toilet-rooms, dressing-rooms or water-closet compartments and all fixtures shall be kept free from all indecent writing or marking and such defacement when found, shall be at once removed by the employer.

B. CLEANLINESS AND MAINTENANCE OF BUILDINGS AND WORKROOMS

1. BUILDINGS

[Compare Labor Law, §§ 84-a, 94, 168-a]

2. WORKROOMS

[Supplementary to Labor Law, §§ 84, 168]

Rule 169.—All parts enumerated in sections 84 and 168 shall be kept in good repair.

Rule 170.—If a building is constructed of smooth finish concrete or other finished surface, or if the roof is built with open frame construction, the Commissioner may dispense with the requirement to lime-wash or paint such walls and ceilings.

3. FLOORS

[*Supplementary to Labor Law, §§ 84, 168*]

Rule 171.—Every floor shall be kept free from protruding nails, splinters, holes or loose boards. If any floor is so defective or in such ill repair that it cannot be kept in a clean and sanitary condition, it shall be replaced by a new floor.

Rule 172.—The floor of every workroom shall be maintained so far as possible in a dry condition. Where wet processes are used, the floors shall be drained free from liquids, or whenever it is impracticable to keep it entirely free from liquids, platforms, mats or other dry standing place shall be provided for women.

4. STAIRS AND HAND RAILS

Rule 173.—Every flight of stairs having more than three (3) risers shall have treads in good condition with no protruding bolts, screws or nails, and every flight of stairs having more than four (4) risers shall be equipped with permanent and substantial hand rails, approximately thirty-six (36) inches in height. Such hand rail shall be placed (1) on all open sides, (2) on one side of enclosed stairway four (4) feet or less in width, (3) on both sides of enclosed stairway over four (4) feet in width, (4) on both sides and in center of stairways over eight (8) feet in width. This rule shall not apply where railings are specified in rules for dangerous machinery.

Rule 174.—Every hand rail shall be smooth and free from splinters.

See Law, § 79-a, 3. Hand rails may project not more than three and one-half (3½) inches into such width, i. e., width of stairway.

5. CUSPIDORS

Rule 175.—No person shall spit or expectorate upon the walls, floor or stairs of any building. One (1) or more cuspidors shall be provided in every toilet-room used by males. In workrooms, cuspidors shall also be provided whenever required by the Commissioner. Every cuspidor shall be made of impervious material with smooth surface, which can be easily cleaned. Where work is continuous during the twenty-four hours, all cuspidors, if used, shall be cleaned both night and morning.

It is recommended that cuspidors be partly filled with water or odorless disinfectant.

6. RECEPTACLES FOR WASTE

[*Supplementary to Labor Law, §§ 84, 168*]

Rule 176.—Whenever a receptacle is used for waste or refuse which is liquid, or consists of material liable to decay or have an offensive odor, it shall be made of metal or earthenware or be metal-lined and shall not leak. It shall be kept covered, and shall be washed out as often as is necessary to keep it in sanitary condition.

7. SWEEPINGS

Rule 177.—All sweepings, waste and refuse shall be removed in such manner as to avoid raising of dust or odors as often as is necessary to maintain the factory or mercantile establishment in a clean and sanitary condition.

It is recommended that sweeping of workrooms be done outside of working hours.

C. FIRST AID KIT

Rule 178.—In every factory employing more than ten (10) persons, in which power driven machinery is used for manufacturing, there shall be provided a first aid kit at all times free of expense to employees. The Commissioner may require such equipment to be furnished in mercantile establishments. A suitable and easily accessible space shall be set aside to administer first aid, which will insure a reasonable amount of privacy both to the injured and the person rendering first aid. There shall be provided therein two chairs, a small table, and washing facilities consisting of water, basin, towel and soap. If the establishment occupies more than one floor, a stretcher shall be provided. The first aid case shall be made of either metal or glass, shall be so constructed as to exclude dust, and shall be kept clean. In all establishments where work is carried on in more than one building or on several floors, duplicate kits shall be supplied as directed by the Commissioner.

Where a separate hospital room is maintained for the use of employees who are injured or sick, the first aid kit may be dispensed with, except that in hazardous occupations a simpler kit should also be kept for immediate use in parts of the building located at a distance from the hospital.

Rule 179.—In every establishment where a first aid kit is to be maintained, at least one (1) person shall be instructed by a physician or trained nurse how to apply first aid to injured persons and shall have charge of the first aid kit and its maintenance. Such kit shall be for first aid use only.

It is recommended that when an employee is so seriously injured that he must stop work for the day, the service of a physician should be secured as promptly as possible.

Rule 180.—The contents of the first aid case shall be as follows:

INSTRUMENTS

1 pair scissors.
Thumb forceps.

Tourniquet.
Graduated medicine glass.

DRUGS

2 oz. aromatic spirits of ammonia.
2 oz. 4% boric acid.
2 oz. alcoholic iodine solution, half strength (for external use).
2 3 oz. collapsible tubes of bicarbonate of soda mixed with vaseline [3%] (for burns).
2 oz. castor oil (for eye injuries).

DRESSINGS

1 doz. assorted sizes sterile gauze bandages.
1 spool Z. O. adhesive plaster, 1 inch by 5 yards.
3 ½ oz. packages of absorbent cotton.
8 1-yard packages of sterile gauze.
Splints of assorted sizes for fractures.
Wooden applicators wound with cotton.
Wooden tongue depressors.

All bottles or other containers containing drugs or other substances shall be clearly labeled and the specific purpose for which the contents are to be used shall be marked thereon. Directions for the use of the first aid kit may be secured from the Commissioner.

The Industrial Board may approve special types of first aid kit and also may designate more elaborate first aid kits for special industries.

NOTE: On account of the importance of prompt sterile dressing of all wounds to prevent infection, it is recommended that, wherever possible, employers should secure the services of a physician or trained nurse to visit their establishments at least once a day.

D. GENERAL PLUMBING

Rule 181.—The rules under subdivision D shall not apply in cities of the first and second class.

[*Supplementary to Labor Law, §§ 84-a, 168-a*]

1. DEFINITIONS

Rule 182.—The term "house sewer" is applied to that part of the main drain or sewer extending from a point two feet outside of the outer front wall of the building, vault or area to its connection with sewer or cesspool.

The term "house drain" is applied to that part of the main horizontal drain and its branches inside the walls of the building, vault or area and extending to and connecting with the house sewer.

The term "soil line" is applied to any vertical line of pipe having outlets above the floor of first story for water-closet connections.

The term "waste line" is applied to any vertical line of pipe having outlets above the floor of first story for fixtures other than water-closets.

I. NEW INSTALLATIONS

1. SEWER CONNECTION

Rule 183.—The plumbing of every building shall be separately and independently connected with a sewer, except that where a building is located in the rear of another building under the same ownership, the plumbing system may be connected with the house sewer or house drain of the front building. If a sewer is not accessible, the plumbing of every building shall be connected with a cesspool or disposal system constructed according to local ordinances or according to the rules of the New York State Department of Health or the regulations of the Public Health Council except as otherwise specified in Rule 140.

2. HOUSE DRAIN AND HOUSE SEWER

Rule 184.—All pipes shall have a fall of at least one-quarter ($\frac{1}{4}$) inch per foot, all connections and changes in direction shall be made with proper fittings. Saddle hubs and split fittings will not be permitted.

Rule 185.—The house sewer and house drain shall be at least four (4) inches in diameter when receiving the discharge of a water-closet. No house sewer or house drain shall be of less diameter than the largest line of pipes connecting thereon. The arrangement of all pipes shall be as straight and direct as possible.

3. SOIL AND WASTE PIPES

Rule 186.—The diameters of soil and waste pipes shall be not less than those given in the following table:

	Inches
Main soil stacks.....	4
Branch soil pipes.....	4
Main waste stacks.....	2
Branch wastes for slop sinks.....	3
Branch waste for urinals.....	1½
Branch waste for sanitary cuspidors.....	1
Branch waste for drinking fountains.....	1½
Branch waste for other fixtures.....	1½

4. TRAPS

Rule 187.—Every fixture shall be separately trapped by a water-sealing trap placed as close to the fixture outlet as possible and no trap shall be placed more than two (2) feet from any fixture. A battery of lavatories may, however, connect with a single trap, provided there is a total of not more than eight (8) feet of untrapped pipe.

All exposed or accessible traps, except water-closet traps and other traps cast integral with the fixture, shall have brass trap screws for cleaning the trap, placed below the water level.

Rule 188.—No masons' cesspool, bell, pot, bottle or D-trap will be permitted.

Rule 189.—The sizes for traps shall not be less than those given in the following table:

	Inches in diameter
Traps for water-closets	2½
Traps for not more than 2 urinals.....	1½
Traps for a battery of more than 2 urinals.....	2
Traps for not more than 2 lavatories.....	1½
Traps for a battery of more than 2 lavatories.....	2
Traps for slop sinks.....	2½
Traps for shower baths.....	2
Traps for drinking fountains.....	1½
Traps for sanitary cuspidors.....	1
Traps for other fixtures.....	1½

5. WATER SUPPLY AND FLUSH PIPES

Rule 190.—Main service pipes for water supply shall be not less than three-quarters ($\frac{3}{4}$) inches in diameter.

Water-closet flush pipes shall be not less than one and one-fourth ($1\frac{1}{4}$) inches and urinal flush pipes not less than one (1) inch in diameter.

II. ALL INSTALLATIONS

1. WORKMANSHIP

Rule 191.—All materials used in the plumbing shall be of good quality, free from defects which affect their strength, durability or sanitary condition, and all work shall be executed in a thoroughly workmanlike manner.

2. LOW FIXTURES

Rule 192.—No water-closet or urinal shall be installed or maintained in any part of a building where back water from the sewer interferes with the flushing

out of such fixtures, except on permission of the Industrial Board, in which case a back water valve and quick-closing gate valve shall be used to cut off fixtures located below back water level.

3. MAINTENANCE

Rule 193.—The entire plumbing shall be kept at all times clean and sanitary, in good repair and in water-tight condition.

4. TANKS

Rule 194.—When the water pressure is not sufficient to supply freely and continuously all fixtures, there shall be provided a house supply tank which shall maintain and supply sufficient water to all fixtures at all times. Such tank and its connections shall be protected against frost.

III. FILING PLANS AND TESTING NEW INSTALLATIONS

1. FILING OF PLANS

Rule 195.—The drainage and plumbing of all buildings hereafter built shall be executed in accordance with the above rules of the Industrial Board, excepting that the local ordinances, rules and regulations of any city, town or village, not inconsistent therewith, may also be enforced.

Duplicate drawings and descriptions of the plumbing and drainage of all buildings hereafter built shall be filed by the owner, architect or builder, with the local officer having authority, and where no such officer exists, with the Commissioner. The drawing shall be drawn to scale in ink, or they shall be prints of such scale drawings, and shall consist of such floor plans and sections as may be necessary to show clearly all plumbing work to be done.

No work upon any such plumbing or drainage may be begun until such plans have been approved by him and until the plumber who is to do the work signs the specifications and makes affidavit that he is duly qualified and authorized to proceed with the work.

Repairs or minor alterations of plumbing may be made without filing drawings and descriptions but such repairs or alterations shall not be construed to include cases where new vertical lines or horizontal branches of soil, waste, or vent pipes are to be used.

2. TESTING THE PLUMBING SYSTEM

Rule 196.—Every new plumbing system and every old system which has been extended shall be tested in the presence of the Commissioner in all localities where the local authorities do not make such test.

The water test shall be used for testing all plumbing work known as "roughing" except in freezing weather when some other method satisfactory to the Commissioner may be used. Such test shall include all house drain, soil and main waste pipes, and joints thereof, ferrule joints, and all traps and branch wastes which are to be enclosed. The house drain shall be extended outside the foundation walls before the test is made. All defects shall be remedied and the system made to comply with the specifications in all respects, within one (1) week from the date of testing.

If the Commissioner has not observed the above test within three (3) days after notice, the plumber may call upon two (2) witnesses to prove the testing

who shall make affidavit thereon if the tested work has proved to be tight. The plumber may then empty the pipes and proceed with the work. After the plumbing is completed and the fixtures set, a smoke test shall be made in the presence of the Commissioner.

DUTIES OF EMPLOYEES

Rule 197.—Every employee shall be responsible for carrying out all rules which immediately concern or affect his conduct.

SANITATION OF CANNERY LABOR CAMPS

[*Supplementary to Labor Law, § 98; effective June 1, 1914; for general sanitation of labor camps see Sanitary Code, pp. 168-170, post.*]

CONSTRUCTION

ROOF, WALLS AND FLOORS

Rule 200.—The roof and the walls of every dwelling, shack, tenement, barracks or living quarters of any kind or description must be so constructed as to be watertight.

Rule 201.—In new structures, the floor of every room used for sleeping purposes must be built of wood, asphalt or concrete with smooth finish of non-absorbent cement; if built of wood it must be raised at least one foot from the ground and the boards used therefor must be planed, tongued and grooved and at least seven-eighths ($\frac{7}{8}$) inch in thickness; if built of asphalt or concrete, it must be laid on a solid foundation other than earth, and must be at least two (2) inches in thickness. All such work must be executed in a thorough workmanlike manner.

Rule 202.—In existing structures the floor, if built of wood, must be raised above the ground a sufficient distance to allow free circulation of air beneath it.

Rule 203.—The floor of all such living quarters must be kept in good repair. If any floor is broken, or has such cracks or knot-holes that it cannot be kept in a dry and sanitary condition, it must be repaired or replaced by a new floor.

INTERIOR PARTITIONS

Rule 204.—In every existing structure the interior partitions must be at least ten (10) feet in height or must extend to the ceiling or roof. In every structure hereafter erected, every such interior partition must extend to the ceiling or roof. Every interior partition must be solid and without open cracks or knot-holes.

AIR SPACE AND WINDOWS

Rule 205.—In every room used for sleeping purposes there must be provided not less than four hundred (400) cubic feet of air space for each person except that not less than two hundred (200) cubic feet may be provided for each child under fourteen (14) years of age.

Rule 206.—All living quarters other than tents must be built with windows. Every room must have at least one window opening directly to the outer air. Every window must be set with glass and so constructed that it can be easily

opened. Every window-opening must have an area of at least four (4) square feet and be at least one (1) foot high. Every window-opening must be protected by mesh, wire netting or other screening to prevent the entrance of any person, but not to interfere with the free circulation of air.

NOTE: This rule is to prevent trespass while encouraging the opening of windows for ventilation.

Rule 207.—In every existing room used for sleeping purposes having not more than one window a transom opening not less than two (2) feet by six (6) inches must be cut to the outer air. Such transom opening must be kept open to admit air but may be covered with wire netting or other screening.

Rule 208.—In every structure hereafter erected, unless ventilation through the roof is provided, there must be a window or door-opening in at least two walls of every room, one of which may open upon a hall or passageway opening to the outer air.

KITCHEN AND DINING-ROOM

Rule 209.—There must be maintained in connection with all living quarters kitchen and dining-room accommodation under shelter, which shall have seats for at least 50 per cent of all persons dwelling in such living quarters, who are not otherwise provided with such accommodations under shelter separate from their sleeping rooms.

BEDS

Rule 210.—Beds, cots or bunks must be provided in every room used for sleeping purposes, in sufficient numbers for the occupants of the room. Every such bed, cot or bunk must be raised at least twelve (12) inches from the floor. No bed or bunk may be placed one above the other.

Rule 211.—No bed, cot or bunk may be placed at any time nearer than two (2) feet from the side of any other bed, cot or bunk in the same room.

PRIVIES AND WATER-CLOSETS

Rule 212.—Separate privies or water-closets must be provided for each sex, and at the entrance clearly marked "Men" or "Women," in English and the principal native language of the persons living in the camp. No person shall be allowed to use or frequent a privy or water-closet assigned to the opposite sex.

Rule 213.—No privy may be located less than twenty-five (25) feet distant from any living quarters, and the entrance to every privy must be not less than twenty (20) feet distant from the entrance to a privy assigned to the opposite sex. One privy or water-closet which is readily accessible must be supplied for every twenty (20) persons of each sex occupying the living quarters. For more than one hundred (100) persons, one privy or water-closet may be supplied for every twenty-five (25) persons.

Rule 214.—The entrance to every privy or water-closet compartment must be screened by a vestibule or by a stationary screen at least two (2) feet wider than the entrance door, extending to a height of at least six and one-half (6½) feet.

Rule 215.—Every privy vault must be watertight and fly-proof and the walls of every privy vault hereafter built must extend not less than twelve (12) inches above the surface of the surrounding ground.

Rule 216.—Every privy must be ventilated by an unobstructed opening to the outer air, other than the door, which has an area of at least one hundred and forty-four (144) square inches. Every privy must be provided with a door. Every window and ventilating opening of a privy must be protected by metal screens which will prevent the entrance of flies, and every door must be provided with a self-closing device to keep it closed.

WATER SUPPLY

Rule 217.—Water must be supplied for drinking and washing purposes in every camp. It must be obtained from a source and in quantities satisfactory to the Commissioner of Labor. Every employer must furnish such water at the living quarters provided for his employees.

Rule 218.—Where there is no stream or lake accessible for bathing, and no baths are provided for the use of the camp, shacks or sheds, separate for each sex, removed from each other and at all times accessible must be provided for bathing purposes.

Rule 219.—Tubs and water for laundry purposes must be provided in or adjacent to all living quarters.

DRAINAGE

Rule 220.—The premises and surrounding ground of all living quarters and areas or passageways connected therewith must be kept thoroughly drained so that no stagnant water can collect or remain thereon.

Rule 221.—Readily accessible slop sinks must be provided to carry off all liquid waste. The pouring of such waste upon the ground near the living quarters is prohibited. All waste must be disposed of in such a way as not to contaminate the water supply of the camp, and in accordance with any rules of the State Department of Health and regulations of the Public Health Council relating thereto.

MAINTENANCE

HOUSING

Rule 222.—No room located more than one floor above the ground floor in any house of frame construction may be used for sleeping quarters without the written consent of the Commissioner of Labor.

Rule 223.—At least two (2) rooms must be provided for every family composed of husband and wife and one or more children above the age of ten (10) years.

Rule 224.—Sleeping accommodations must be provided in rooms which shall be separate for each sex for all males and females other than those who are housed together with their own immediate families.

BEDS AND BEDDING

Rule 225.—At the beginning of every season all living quarters and all beds, cots or bunks, mattresses, pillows and covers must be entirely clean

and free from all vermin. The Commissioner of Labor may at any time thereafter order the immediate cleansing and disinfection of such premises and articles, or destruction of such articles.

REFUSE AND GARBAGE RECEPTACLES

Rule 226.—Metal, sheet-iron or sheet-iron lined receptacles, or other receptacles of solid construction, with covers so constructed and arranged as to prevent the entrance of flies and other insects, must be placed adjacent and convenient to all living quarters. All refuse and garbage must be placed therein, and at least every other day or whenever the receptacle is full, must be destroyed by fire or removed to a safe distance from any building or dwelling and so deposited as not to create a nuisance.

PRIVIES

Rule 227.—Every privy vault must be emptied at least once a month, and at more frequent intervals if necessary. In no case must it be allowed to overflow. Removable metal receptacles or cans may be used instead of privy vaults if they are watertight and emptied whenever necessary to prevent overflowing. Dry sand, fine dry earth, lime or sawdust must at all times be provided in a receptacle in every privy and used at frequent intervals to deodorize the contents of the vault.

Rule 228.—Every privy must be cleaned by the thorough removal of all excreta to a safe distance from any building or dwelling, and such excreta must be so deposited and so disposed of on or beneath the surface of the ground as not to create a nuisance or permit the collection of flies or other insects.

CLEANLINESS

Rule 229.—Every dwelling, shack, tenement, barracks or living quarters of any kind or description and every part thereof and all the premises, slop sinks and privies connected therewith must at all times be kept in a clean and sanitary condition and free from dirt, filth, garbage and rubbish.

CARETAKER

Rule 230.—In every camp composed of ten (10) or more persons there must be at least one (1) employee whose specific duty it shall be to enforce the rules as to cleanliness and the removal of dirt, filth, garbage, rubbish and excreta.

DUTIES OF EMPLOYER

Rule 231.—Every employer operating a factory and furnishing to the employees thereof any living quarters, shall be responsible for the enforcement of every rule herein contained.

DUTIES OF EMPLOYEES

Rule 232.—Every person living in any living quarters to which these rules apply shall also be responsible for the carrying out of all provisions which immediately concern or affect his conduct.

With the foregoing provisions of the Industrial Code applying to cannery labor camps should be read also the provisions of Chapter V of the Sanitary Code, established by the State Public Health Council for labor camps in general, which are as follows:

LABOR CAMPS

Regulation 1. Pollution of waters prohibited. All persons living in the open or in camps, tents, or other temporary shelters shall exercise every proper and reasonable precaution to dispose of their wastes so that springs, lakes, reservoirs, streams and other watercourses shall not be polluted.

Regulation 2. Notice of labor or construction camp to be occupied by five or more persons to be given health officer. Every railroad or other corporation, contractor, lumberman or other person who shall establish, construct or maintain any labor or construction camp to be occupied by five or more persons, and the person in charge of any temporary living quarters on wheels or otherwise that shall be provided for five or more workmen, shall at once notify the health officer of the town or village in which the camp or quarters are to be located, by telephone, telegraph or letter, of the presence and location of such quarters or camp.

Regulation 3. Health officer to inspect and pass on location and sanitary conditions of camps. It shall be the duty of each health officer when notified of the establishment of any camp with temporary buildings, on wheels or otherwise, in his jurisdiction promptly to inspect and determine the propriety of the location of the camp and of its sanitary conditions. If the location or manner of operation of the camp be found by him to be detrimental to the public health he shall cause the camp to be removed or the manner of its operation to be corrected.

Regulation 4. Permit required for labor or construction camp to be occupied by more than ten persons for more than six days. No railroad or other corporation, contractor, lumberman or other person shall establish, construct or maintain any labor or construction camp to be occupied by ten or more persons for a period of more than six days without a permit from the local health officer.

Whenever any such camp shall be vacated, the person in charge thereof shall forthwith notify the local health officer and surrender to him the permit therefor.

Regulation 5. Application required for permit. Application for such permit shall be made in writing to the local health officer.

The application shall state the exact situation of the proposed camp, the type of camp to be established, the approximate number of persons to be maintained, the probable duration of stay, the proposed source of water supply for the camp, and the proposed method of sewage and garbage disposal.

Regulation 6. Conditions of issuance of permit; may be revoked. If the local health officer is satisfied after inspection that the proposed camp will not be a source of danger to the health of others or to its inmates, he shall issue the necessary permit in writing in a form to be prescribed by the state commissioner of health.

In case the local health officer declines to issue the permit an appeal may be taken to the state commissioner of health, who may grant a permit.

Any such permit may be revoked for cause by the local health officer or by the state commissioner of health, after a hearing.

Regulation 7. Health officer to be notified of the name of the person responsible for sanitary condition of camp. It shall be the duty of the owner, manager or foreman of a labor or construction camp occupied by twenty or more persons to detail one person who shall be responsible for the sanitary condition of the camp, and to notify the local health officer of the name of such person.

Regulation 8. Copy of this chapter to be posted. There shall be furnished by the health officer and conspicuously posted in every camp a copy of this present chapter of the sanitary code or of such parts thereof as may be considered necessary by the state commissioner of health.

Regulation 9. No building, tent or car in any camp to be nearer than fifty feet of water's edge of public water supply. In every camp or temporary quarters the nearest part of any building, tent, car or shed shall be at least fifty feet in a horizontal direction from the water's edge of any stream, lake or reservoir, except in the case of the Hudson river below the city of Albany, the waters of which are used for a public water supply.

Regulation 10. Suitable privy or other toilet facilities to be provided and used. For every camp there shall be provided convenient and suitable privy or other toilet facilities approved by the local health officer, which the occupants of the camp shall be required to use instead of polluting the ground.

Regulation 11. Construction of privies more than two hundred feet from the water's edge. If such privy be more than two hundred feet from the water's edge of any spring, stream, lake or reservoir forming part of a public or private water supply, it shall consist of a pit at least two feet deep, with suitable shelter over the same. No such pit shall be filled with excreta to nearer than one foot from the surface of the ground and the excreta in the pit shall always be covered with earth or ashes. If the camp is to be occupied for more than six days between May 1 and November 1 the shelter and pit shall be enclosed in fly netting.

Regulation 12. Construction and care of privies located between fifty and two hundred feet from the water's edge. If such privy be between fifty and two hundred feet from the waters of a spring, stream, lake or reservoir forming part of a public or private water supply, there shall be no pit, but the excreta shall be received in a water-tight tub or bucket and periodically, as often as may be found necessary, shall be taken away and disposed of. Such privy shall be properly screened against flies and kept in a clean and sanitary condition; the pails or buckets shall not be allowed to fill so that they overflow or spill in carrying, and the construction of the privy shall be such that the convenient removal and replacement of the tubs or buckets is facilitated.

Regulation 13. Disposal of wastes from privies. The pails or buckets used in privies located between fifty and two hundred feet from the water's edge, as referred to in Regulation 12, shall when not more than three-quarters filled be removed from the privy and carried at least two hundred feet from the water's edge and the contents there either burned or buried in a trench at least two feet deep so that when buried there shall be at least one foot of earth cover. The tubs or buckets immediately after being emptied shall be rinsed out with a suitable disinfectant as particularly prescribed for such purposes by the special rules and regulations of the state department of health and the rinsing fluid shall also be emptied into the trench.

Regulation 14. Garbage to be disposed of in suitable manner. All garbage, kitchen wastes and other rubbish in camps shall be deposited in suitable covered receptacles which shall be emptied daily or oftener if necessary, and the contents burned, buried or otherwise disposed of in such a way as not to be or become offensive or insanitary.

Regulation 15. Water rules to be observed. Whenever a camp is established on the banks of a spring, lake, reservoir, stream or other watercourse which is a source of water supply protected by water rules formulated by the state commissioner of health, no bathing or washing by the occupants of said camp shall be allowed in said springs, lakes, reservoirs, streams or other watercourses, and all said water rules shall be strictly observed. There shall be furnished by the local health officer and, conspicuously posted in such camp a copy of said rules or parts thereof as may be considered necessary by the state commissioner of health.

Regulation 16. Location and drainage of stables regulated. No stable or other shelter for animals shall be maintained within one hundred feet of any living quarters in a camp, nor within one hundred and fifty feet of any kitchen or messroom therein. No drainage from such stable or shelter shall be permitted to empty directly into any spring, lake, reservoir, stream or other watercourse forming part of a public or private water supply.

Regulation 17. Camps to be kept and left in clean and sanitary condition. All tents, cars, and buildings in, and the grounds surrounding, camps shall at all times be kept and when definitely vacated be left in a clean and sanitary condition.

Regulation 18. Person in charge of camp to report cases of disease presumably communicable. It shall be the duty of the person in charge of any labor or other camp to enforce Regulation 6 of Chapter II of the sanitary code, reading as follows:

"It shall be the duty of every visiting nurse and public health nurse and of the person in charge of any labor or other camp, having knowledge of any person affected with any disease presumably communicable, who by reason of the danger to others seems to require the attention of the public health authorities, to report at once to the local health officer, within whose jurisdiction such case occurs, all facts relating to the illness and physical condition of such affected person."

Regulation 19. Isolation of cases of communicable disease; cases not to be removed without permission of health officer. Whenever a case of disease presumably

communicable shall occur in any labor or construction camp it shall be the duty of the person in charge of the camp immediately to isolate the case. Such isolation shall be maintained in a manner approved by the local health officer. The person in charge of the camp shall not allow the case to leave or be removed from such camp without the permission of the local health officer.

Regulation 20. Duty to enforce regulations on person in charge. It shall be the duty of the superintendent, foreman or other person in charge of a camp to see that all regulations of this chapter are faithfully observed.

Regulation 21. Supplementary rules and regulations. Labor and construction camps shall be subject to such special and supplementary rules and regulations, not inconsistent herewith, as may from time to time be made by the state commissioner of health.

Regulation 22. Date of taking effect and territory where effective designated. Every regulation in this chapter shall take effect throughout the state of New York except in cities on the first day of January, 1915.

SANITARY CODE FOR BAKERIES AND CONFECTIONERIES

[Effective June 15, 1914, under Labor Law, § 117; not applicable to cities of the first class; the bakery code governs when in conflict with general sanitary rules for factories]

CONSTRUCTION AND MAINTENANCE

[Supplementary to Labor Law, §§ 84, 84-a, 111, 112]

Rule 300.—In existing bakeries or confectioneries side walls shall either be of plain brick painted a light color with a good oil or enamel paint, or glazed brick; or smoothly plastered, tiled or wainscoted. In new installations side walls shall be constructed either of (a) brick which, unless glazed, shall be painted a light color, with a good oil or enamel paint; (b) tile; (c) hard plaster (either cement or gypsum plaster) laid over brick or metal or metal lath and painted a light color with a good oil or enamel paint, or (d) other waterproof material approved by the Industrial Board. Walls and ceilings shall be kept free from holes, cracks or ragged edges. Ceilings shall either be (a) plastered; (b) ceiled with metal or wood; (c) of open joists, if exposed surfaces are planed and double floors used immediately above, which shall be of tongued and grooved material if of wood; or (d) smooth concrete. No new wainscoting shall be installed in an existing bakery or confectionery; the Commissioner of Labor shall have power to order the removal of existing wainscoting when in his opinion the same leads to unsanitary conditions and may order the substitution of materials specified above for new installations.

Rule 301.—All walls and ceilings shall be kept well painted with oil or enamel paint or lime washed or calcimined, and all interior or exposed woodwork shall be kept well painted with oil or enamel paint or kept well varnished. All paint or varnish shall be of a light color.

Rule 302.—The angles where floor and walls and ceiling join shall be so maintained as to be rat proof.

Rule 303.—Floors in workrooms shall be cleaned daily and any adhering materials scraped off with scrapers provided for that purpose alone; such floors shall be scrubbed at least once a week.

Rule 304.—Interior surfaces shall be scrubbed as often as is necessary to keep them absolutely clean.

NOTE.—Except in rooms devoted to the manufacture of ice cream, floors of tongued and grooved maple are recommended.

VENTILATION

[Supplementary to Labor Law, § 86. See also below, rule 316]

Rule 305.—Wherever bakery or confectionery products are fried in fat or candy is boiled over an open stove, a ventilating hood and pipe shall be provided which shall effectively take off the smoke, gases and vapors; the pipe shall not be less than four (4) inches in diameter and shall be attached at the extreme top of hood; the hood shall be cone-shaped, shall not be raised more than six and one-half (6½) feet from the floor and its width and breadth shall at least equal the width and breadth of the stove to be ventilated.

Rule 306.—Smoke dampers in ovens shall at all times be maintained in a serviceable condition.

Rule 307.—Oven ashpits shall be provided either (a) with flue and damper, or (b) with ventilating hood and pipe not less than four (4) inches in diameter leading either to the outer air and extending to a point at least twenty (20) feet higher than the top of hood, or leading to the flue of the building.

Rule 308.—Oven doors shall be provided with a ventilating hood of at least the same width as the doors and with pipe not less than four (4) inches in diameter, leading either to the flue of the building or to the outer air and extending to a point at least twenty (20) feet higher than the top of the hood, except (a) when indirect heating ovens are used; (b) when the steam flue of the oven is eight (8) inches or more in depth; or (c) when there are over the oven either louvered openings or pivot swings in skylights of four (4) square feet area per oven or satisfactory mechanical means of ventilation.

Rule 309.—Whenever a hood is used in complying with the requirements of paragraphs 3 and 4 of this rule, it shall be constructed of brick, cement or metal, shall extend not more than one (1) foot from the oven wall and shall be cone-shaped, with pipe attached at extreme top of hood.

SINKS

[Supplementary to Labor Law, § 88-a]

Rule 310.—All sinks shall be made of non-absorbent material. Sinks shall be on iron supports, with metal flashing tightly fitted over the rear edges and extending at least one (1) foot in height over the entire length of the sink, unless the sink itself so extends. Sinks shall be installed anew whenever cracked or broken. In new installations iron sinks, unless galvanized or enameled, will not be permitted and, instead of flashing, shall have backs that extend as above.

Rule 311.—No sink shall be wholly or partially enclosed with woodwork.

Rule 312.—There shall be at least one sink not less than thirty (30) inches long, twenty (20) inches wide and six (6) inches deep.

Rule 313.—All sinks shall be provided with hot as well as with cold running water.

Rule 314.—All sinks shall be kept in a clean sanitary condition at all times; no waste matter shall be allowed to clog up the strainers.

Rule 315.—Washtubs shall be made of, or entirely covered by non-absorbent material. In the latter case the joints shall be soldered.

WINDOWS

[Supplementary to Labor Law, § 86]

Rule 316.—All windows shall be so arranged and maintained that they can be opened easily for purposes of ventilation.

REFUSE RECEPTACLES

[Supplementary to Labor Law, § 113]

Rule 317.—There shall be provided metal receptacles with tight-fitting covers, for ashes, refuse and garbage. The contents of refuse and garbage receptacles shall be removed at least once a day.

Rule 318.—No coal or waste matter shall be deposited or kept on the floor.

SLEEPING ROOMS

[Supplementary to Labor Law, § 113]

Rule 319.—No sleeping room shall open into any workroom or any room where the raw material or finished product is stored or sold.

Rule 320.—Sleeping rooms shall be kept in a thoroughly sanitary condition at all times and be dry and well ventilated.

SCREENS

[Supplementary to Labor Law, § 113]

Rule 321.—Doors, windows or other openings shall, during the period between May first and November first, be provided with wire screens of not coarser than 14 mesh wire gauge. Screen doors shall be self-closing.

DRESSING ROOMS

[Supplementary to Labor Law, § 88]

Rule 322.—A properly lighted and ventilated room shall be provided as a dressing room. If located in workroom, store or salesroom it shall be enclosed on all sides by a wall or partition extending from floor to ceiling. It need not be in the bakery or confectionery, provided it is located in the same building. It shall contain at least six (6) square feet of floor space for every person employed in any one shift exclusive of office force up to ten, and two and one-half (2½) square feet for every additional person.

Rule 323.—Workmen shall not change their clothes in any other place than the foregoing while in the factory building.

Rule 324.—All lockers shall be constructed so as to permit thorough ventilation. None but metal lockers shall be installed after June 15, 1914. A hook shall be provided outside the locker for the work clothes of each person employed.

WASHING FACILITIES

[Supplementary to Labor Law, § 88, subd. 2]

Rule 325.—For every ten (10) employees or fraction thereof employed in any one shift, at least one (1) sink or stationary wash basin of non-absorbent

material shall be provided, fitted with two spigots conveying hot and cold water. Troughs of non-absorbent material may take the place of sinks or wash basin, in which case there shall be at least two (2) feet of trough length and two (2) spigots for every ten (10) employees. These washing facilities need not be in a separate room, but shall be in the bakery or confectionery.

Rule 326.—There shall be at all times provided by the employer a sufficient supply of toilet soap (preferably liquid) near each sink used for washing purposes; there shall also be provided by the employer nail brushes for the workmen, and one clean towel daily for each employee. Paper towels may be used if supplied in unlimited quantity.

PERSONAL CLEANLINESS

[Supplementary to Labor Law, § 113]

Rule 327.—In case overalls or aprons are worn, bibs shall be attached. In no case shall bakery or confectionery products come in contact with the shirts or other garments that lie next to the bare skin of the workman.

Rule 328.—Workmen shall wash their hands with soap and water on starting work, after meals, and each time after they have used the water-closet or urinal; advisable also when changing from one kind of work to another.

SIGNS

[Supplementary to Labor Law, §§ 84, 113, and to Penal Law, § 1275]

Rule 329.—In addition to other signs required to be posted by the Labor Law there shall be posted in every bakery or confectionery signs in English and foreign languages, prepared and furnished by the Department of Labor. These shall state (a) the provision regarding washing, as per Rule 328 of this code; (b) the prohibition of the use of tobacco in any form, as per the provision of section 113 of the Labor Law; (c) section 84 of the Labor Law regarding spitting; (d) the penalty for a violation of these rules.

OPERATING METHODS

[Supplementary to Labor Law, § 113]

Rule 330.—Dough-troughs, proof or steam boxes and pan or bread racks shall be mounted on casters or rollers.

Rule 331.—Wooden bread boxes, roll and bread boards, work tables and dough-troughs shall be smoothly finished, free from holes, cracks or crevices.

Rule 332.—All machines and utensils and all proof or steam boxes shall be thoroughly cleaned after each day's work.

Rule 333.—All tools, apparatus or utensils used in making or in the direct handling of ice cream, including freezers, vats, mixing cans or tanks and all piping shall be thoroughly cleaned after use and rinsed with boiling water or sterilized with live steam.

Rule 334.—Open sifting of ashes is prohibited. Ashes may be sifted in enclosed sifters in other than work hours.

Rule 335.—Ashpits shall be provided with solid metal doors which, except in indirectly heated ovens, must be kept closed when grates are dumped. These

doors may be provided with holes of a size not larger than to admit poker and watering hose.

NOTE.— It is recommended that provision be made for dumping drop — or swivel — grates from the outside by means of cable or chain. Where this is impracticable, double-swinging doors with semi-circular holes on their inner edge are recommended, to be closed after poker has engaged the grate.

Rule 336.— Wetting of ashes shall only be done in ashpits and when door is closed.

Rule 337.— Swab-tubs shall be of metal and shall be kept empty when not in use. They shall be cleaned and supplied with fresh water after each cleaning of oven. Sanitary swabs shall be provided.

Rule 338.— Ice-boxes shall be kept thoroughly clean and shall be properly drained.

Rule 339.— The use of live coal in proof or steam boxes is prohibited.

CARE OF RAW MATERIAL AND FINISHED PRODUCT

[Supplementary to Labor Law, § 118]

Rule 340.— No bakery or confectionery or place where the raw material or finished product of same is kept or stored shall be under or connect either directly or indirectly with a stable or other building where horses, fowl or other animals are housed or kept. No raw material shall be kept or stored in a stable or such building.

Rule 341.— All finished or partly finished product, except when in baskets or boxes ready for shipment, and all raw materials in opened bags or unsealed containers other than barrels, shall be stored or kept on platforms, shelves or racks not less than fifteen (15) inches from the floor and two (2) inches from any side wall; if the platforms, shelves or racks be on casters or rollers they shall be raised at least four (4) inches from the floor and shall be kept at least two (2) inches from any side wall.

Rule 342.— Unless barrels are tapped, they shall be provided with metal covers having rims extending downward over the edges.

Rule 343.— All baskets, boxes and other containers, that are used for carrying, storing or delivering the finished product, shall be kept thoroughly clean at all times.

Rule 344.— All hand-carts, wagons, automobiles or other vehicles used for the delivery of the finished product shall be kept thoroughly clean at all times. They shall be so arranged that contents are thoroughly protected from dust and flies.

LABELS AND PASTERS

[Supplementary to Labor Law, § 118]

Rule 345.— No label or paster shall be stuck on bread or other bakery or confectionery goods with gum. In no case shall labels or pasters be affixed in any manner after baking. No newspapers or other second hand paper shall be used for the purpose of lining tins or wrapping up bread or other bakery and confectionery goods.

MEDICAL CERTIFICATES

[*Supplementary to Labor Law, § 113-a*]

Rule 346.—For every person who works in any bakery, confectionery or mercantile establishment, in the manufacture, preparation, packing, storage, sale or delivery of bakery or confectionery products, the occupier shall have in his possession a medical certificate of not more than six months' standing. The foregoing provision shall not apply to the sale or delivery of bakery or confectionery products if wrapped or in cartons. Such certificate shall be on a form prescribed by the Public Health Council of the State of New York and furnished by the Commissioner of Labor, and shall certify that the person employed is free from such contagious, infectious, communicable or skin diseases as the Public Health Council may deem necessary for the safeguarding of the public health. Such certificate shall be exhibited to the Commissioner of Labor on demand. Nothing herein contained shall affect the right of the Commissioner of Labor to require medical examination in accordance with section 113-a of the Labor Law.

This rule shall go into effect when and if the Public Health Council requires the issuance of such certificates by local health officers without charge.

Compare the following from chapter 2 of the Sanitary Code established by the Public Health Council:

Regulation 39 — Handling of food forbidden in certain cases

No person affected with any communicable disease shall handle food or food products intended for sale, which are likely to be consumed raw or liable to convey infective material.

No person who resides, boards, or lodges in a household where he comes in contact with any person affected with bacillary dysentery, diphtheria, epidemic or septic sore throat, measles, scarlet fever, or typhoid fever, shall handle food or food products intended for sale.

No waiter, waitress, cook, or other employee of a boarding house, hotel, restaurant, or other place where food is served, who is affected with any communicable disease, shall prepare, serve, or handle food for others in any manner whatsoever.

No waiter, waitress, cook, or other employee of a boarding house, hotel, restaurant, or other place where food is served, who lodges or visits in a household where he comes in contact with any person affected with bacillary dysentery, diphtheria, epidemic or septic sore throat, measles, scarlet fever, or typhoid fever, shall prepare, serve, or handle food for others in any manner whatsoever.

EXISTING CELLAR BAKERIES

[*Supplementary to Labor Law, § 116*]

Rule 347.—In case any bakery that was legally operated in a cellar on January 1, 1914, shall be discontinued or unused for a period of more than four consecutive months, it can thereafter be reopened as a bakery only by complying with the provisions of section 116 of the Labor Law as to future bakeries. The occasional operation of a bakery for the purpose of evading this rule shall not be deemed a continuance or use thereof. The "Certificates of Exemption" issued by the Commissioner under section 116 of the Labor Law shall include this rule.

FIRE ALARM SIGNAL SYSTEMS OF FACTORIES

[Supplementary to Labor Law, § 83-a; adopted July 8, 1914; effective August 15, 1914; the State Industrial Board issues pamphlet lists of approved material for fire alarm signal systems; the first of these lists has been published, January 22, 1915, as a Supplement to Bulletin No. 5 of the Industrial Code]

Rule 375**GENERAL**

All devices and equipment constructed and installed under these specifications shall conform to the requirements of the Industrial Board.

The Fire Commissioner in the City of New York and the State Fire Marshal in all other parts of the State are designated by law as the supervising authorities.

Full information as required by the supervising authorities shall be furnished the supervising authorities and approved by them before the installation is started.

All systems to be installed in a workmanlike manner and in accordance with the requirements of the supervising authority, but not inconsistent with these specifications.

Fire alarm installations heretofore made in New York City and approved by the Fire Department of said city will be accepted by the Industrial Board. Other installations heretofore made may be accepted in the discretion of the Industrial Board, upon formal application for such approval.

Systems other than those specified herein may be accepted by the Industrial Board when after examination such systems are found reliable and workable in a manner satisfactory to the Industrial Board.

All material shall be rigidly secured in position, and when attached to masonry walls shall be properly fastened by metal expansion shields or toggle bolts. Wooden plugs will not be accepted. When deemed necessary by the supervising authority to mount fire alarm apparatus upon a back board, such back board shall be not less than seven-eighths of an inch ($\frac{7}{8}$ ") in thickness, filled with a non-absorptive compound with an air space of at least one-quarter of an inch ($\frac{1}{4}$ ") behind the back board for the free circulation of air.

There shall be a Board of Approval, to consist of a representative of the State Fire Marshal, to be designated by him; a representative of the Fire Commissioner of the City of New York, to be designated by him; a representative of the Industrial Board, to be designated by the chairman of the Board; and the secretary of the Industrial Board. The Board of Approval shall pass upon all devices and apparatus for use in approved installations. Such Board of Approval shall submit reports to the Industrial Board for consideration and final approval.

TESTS

All systems shall test free of grounds and the contractor shall upon the completion of the fire alarm system make a satisfactory test of the entire equipment in the presence of and under the direction of the supervising authorities or their authorized agent, before final approval and acceptance. The contractor shall also furnish all the necessary tools to conduct this test.

GUARANTEE

It is suggested that the entire system including all alarm boxes, signals, wiring, batteries and other devices shall be guaranteed against any defects in material or workmanship for a period of two years from the date of acceptance by the supervising authority; any defects which may develop in the equipment during this period to be remedied by the contractor without expense to the owner.

It is recommended that contracts for installation of systems contain a clause stating that the final payment will be withheld until acceptance by the supervising authority.

EQUIPMENT

Approved fire alarm equipment is manufactured by and can be procured from the leading manufacturers and electrical supply jobbers in the principal cities. Manufacturers must submit to the Industrial Board, for general approval, samples of their devices and equipment constructed for use under these requirements. Apparatus so submitted and approved shall again be subject to inspection upon installation and shall be rejected if working unsatisfactorily or if differing from the sample submitted for general approval.

ACCESSORIES

Automatically operated circuit breakers and engine stops for shutting down machinery in extremely noisy or hazardous premises may be required, connected with and made a part of the fire alarm system, but in no case shall such circuit breakers or engine stops be installed in such a manner as to cut off the power for lighting current or for operating elevators.

DESCRIPTION OF SYSTEMS

Systems, including all fire alarm boxes and signaling devices shall be wired on closed circuits; signaling devices wired on open circuits shall not be used except by special permission of the Industrial Board. Boxes in all cases to be on closed circuits. A current flow of at least 50 per cent in excess of the minimum current capable of transmitting a fire alarm signal must be maintained; a weaker current to constantly supervise each closed circuit may be permitted under conditions acceptable to the Industrial Board.

When an alarm has been sent in from any one of the alarm boxes, all the signaling devices on the various floors of the building shall automatically sound the number indicating the floor from which the alarm was sent and shall repeat the signal at least four times. The fire alarm system shall not be used for any other purpose. A milliammeter or other approved current indicator shall be provided in every closed circuit. All signaling devices, alarm boxes, relay boxes and alarm box enclosing cases shall be finished in red to distinguish them from other signaling apparatus.

TROUBLE SIGNALS

A trouble bell shall be provided in connection with each closed circuit to ring continuously in case of weak batteries or an opening of the circuit. The bell, which shall be of an approved design of the vibrating type, must be placed in the engine room or other approved central point. At least

four cells of open circuit battery of approved make and type shall be provided for the bell. The bell and battery shall connect with the contacts of a relay having its magnet windings in series with each closed circuit.

MAINTENANCE

The system shall be tested every morning immediately after the hour of starting work in the building to insure the system and the batteries being in an operative condition. The test signal shall consist of two taps or blasts. Each alarm box shall be operated at least once every month to prove that the mechanism is in perfect working order in addition to necessary use of boxes in fire drills. All apparatus operated by springs requiring winding shall be rewound after each alarm and kept in normal condition for operation. A complete record shall be kept of the operation of each system, which will be subject to inspection by the supervising authority, or their authorized agent.

FIRE ALARM BOXES

There shall be one or more fire alarm boxes on each floor of the building located in the natural path of escape from fire; there should usually be a box at each required means of exit. Boxes shall be of an approved type and make and may be operated by a lever or by breaking glass. The box should be so designed that when once started the proper transmission of a complete set of signals cannot be interfered with by manipulation of its starting devices. Each box shall be arranged to send a definite code of signals to indicate the floor or portion of same on which it is located. Not less than three taps or blasts shall be sounded at each revolution of the break wheel. The following suggestion is offered as a guide to assist in the arrangement of the signal code but is not to be considered as mandatory.

Single building of four floors and basement: First floor 2—1, second floor 2—2, third floor 2—3, fourth floor 2—4, basement 2—5.

Whenever fire alarm boxes are made a part of a system in which electro-mechanical gongs are employed, break wheels should be so designed that the signal duration shall be not less than one-half second with silent interval of not less than one-half second between signals, except between numbers consisting of two or more digits and silent period between rounds.

Lever boxes, except succession boxes, shall be designed to automatically wind when lever is pulled for alarm. All parts of the mechanism shall be of the best grade and workmanship. Contact points operated by a break wheel and contact points on testing devices shall be of platinum, silver, or other approved material, and shall be of the scraping type. All current carrying parts shall be properly insulated. All contact points shall be secured in a substantial manner to phosphor bronze springs. The contacts shall be so constructed as to positively break a circuit carrying 250 volts and 1/10 ampere under actual working conditions. All stations shall be provided with means of testing, comprising arrangements to make such tests without operating the break wheel of the box. Provision shall also be made for a silent test of the box mechanism without operating the signaling devices. The testing device shall be of a design which will prevent any person except those in authority from operating same. Testing devices must be so designed as to prevent the possibility of box being left inoperative.

There shall be a metal case enclosing the movement completely and made dust proof as far as possible by the use of gaskets or other suitable means. The metal case shall be drilled and tapped to receive standard conduit at top and bottom. All pull box cases shall be fitted with a glass panel or a door which can readily be opened, so constructed as to protect the pull lever against accidental injury and on which a handle is rigidly secured. The wording, "In case of Fire open Door and pull down lever as far as it will go," or equivalent instructions, must appear on the door. If used in exposed places the box shall be enclosed in a suitable weatherproof outer shell. Approved types of break-glass boxes will be acceptable with no additional protection, except where made necessary by weather conditions; and all break-glass type fire alarm boxes shall be provided with suitable hammers on chains which shall be attached to or near the boxes so that the glass can readily be broken. All break-glass boxes shall have lettered on the fronts the words, "Fire Alarm—In case of Fire break glass." All boxes requiring glass replacements shall be so arranged that replacements cannot be made until the mechanism is reset for another alarm.

SIGNALING DEVICES

General

Signaling devices may consist of bells of approved type, or other devices acceptable to the Industrial Board. There shall be installed on each floor of the building one or more alarm devices, sufficient in number and efficiency to be plainly heard throughout the floor, above the noise of the machinery and other sounds. Where floors are divided by fire walls each section may in the discretion of the supervising authority be deemed a separate floor for the purposes of these requirements. Systems consisting of several types of sounding apparatus should be avoided. The number of signal devices on a circuit may be limited at the discretion of the supervising authority.

All signaling devices shall be of an approved type and the movement enclosed in a dust-proof metal casing insulated from all current-carrying parts. Where conditions require it damp-proof casings shall be installed. Signaling devices shall be placed with their lowest parts about eight feet from floor. Wherever there is danger of mechanical injury, the entire device shall be enclosed in a protecting case made of approved wire netting or perforated metal. This casing shall be insulated from all current-carrying parts, but grounded to conduit.

Magnet windings shall be impregnated with an insulating moisture repelling compound or shall be of enameled wire. All internal connections must be properly protected, securely made, and where subject to motion to be of stranded flexible wire with substantial insulation. Binding posts shall be of such a character that wire is held between two flat surfaces; posts employing a set screw the end of which is used to pinch or bind the wire will not be accepted.

Gongs shall be made of a high grade of cast bell metal or other approved material.

Adjustments must be of such a character that they can be securely locked in an approved manner.

Contact points shall be ample in area, not only to take care of current used in operation, but to insure long life, and shall be of pure silver, platinum, or other approved material.

Whenever necessary hammer rod shall be suitably protected against mechanical injury or derangement by the use of a guard or other suitable means.

RELAYS

All relays shall be of an approved type and make. Magnet windings shall be impregnated with an insulating moisture repelling compound or shall be of enameled wire. All relays shall be enclosed in an approved metal case under lock and key and located where there is no danger of sparking contacts igniting inflammable gases or flyings.

Relays shall be mounted where they will be least affected by vibration in the building, and in no case shall they be mounted on the same back board with sounding apparatus, or so that they will be affected by the vibration caused by such sounding apparatus, and shall be marked plainly with the maximum and minimum operating current values to which such relays will safely respond.

WIRING

The following methods of and materials for the wiring of the system will be approved:

All conductors shall be run in approved metallic conduits or armored cable.

The conduit system shall be permanently and effectually grounded.

All conductor wires used shall be rubber covered and braided National Electrical Code standard. The coil shall bear manufacturer's name and month and year of manufacture.

Wiring in all systems shall be installed after the manner prescribed under National Electrical Code rules as applying to conduit and armored cable installation for light and power circuits except that single braided wire may be used when source of energy is from primary batteries.

In verticle risers no splices will be permitted. All splices shall be made secure, electrically and mechanically, and be soldered without the use of an acid flux, and insulated with rubber and friction tape. All splices shall be in junction or terminal boxes.

No conductor of less than 16 B. & S. gauge nor having a rubber insulation wall of less than 3/64" thick will be approved. Multiple conductor cables not complying with the above requirement shall be subject to special approval.

Where wires pass from one building to another, they must be enclosed in conduit under ground between buildings, wherever possible, and when so installed must be lead encased.

Wires between buildings when not run in conduit must be at least equivalent in conductivity and tensile strength to No. 12 B. & S. copper for box and signaling circuits. They must be supported at least every seventy-five feet on approved glass insulators and brackets. As far as possible they should be run under rather than over electric light or power wires, and be provided with safety devices in accordance with the National Electrical Code rules.

SOURCES OF ELECTRICAL ENERGY

The following sources of energy may be employed:

1. Storage batteries in duplicate.
2. Electric light or power system (public service or isolated plant) supplemented by a storage battery.
3. Private (isolated) plant as preferred source, supplemented by energy from public service lines.
4. Primary batteries in duplicate.

STORAGE BATTERIES

Storage batteries may be employed if under competent supervision and equipped with reliable charging and controlling devices. The following rules apply to such installations:

A sufficient number of storage cells shall be provided in battery to secure maximum efficiency in operation, the required number in each installation to be approved by the supervising authority.

Complete details of installation shall be filed in duplicate and approved in each case before the necessary installation is commenced.

Storage batteries shall be of approved make and type, and shall be in duplicate sets when constituting the only source of energy. Each set of batteries to be capable of maintaining the system efficiently for three days without recharging.

Storage batteries shall be installed in an approved manner in properly ventilated protecting cabinets and wherever possible shall be placed in a room separate from that containing other fire alarm apparatus. If these batteries are placed in a separate room with proper ventilation and where they will not be subject to mechanical injury, protecting cabinets will not be required.

When lead or caustic soda batteries are used, approved heat resisting jars are preferred, and at least one transparent jar shall be used in each series for the purpose of observing the condition of the elements.

The battery in service shall not be disconnected from the fire alarm system during working hours in a factory.

A difference of potential of more than fifty volts will not be allowed on working circuits or storage battery systems when the current flow at any time through any part of the system is more than one ampere.

A full description of the operation of each system, together with instructions for its proper care and maintenance, must be posted in a conspicuous place and in a substantial manner near a point where the person in charge of the system is generally employed.

The potential of the charging circuits shall not be over 250 volts and these circuits shall be installed in compliance with the rules of the National Electrical Code.

CHARGING BOARDS

A suitable charging switchboard of slate, marble or other approved material shall be provided, constructed in accordance with National Electrical Code rules, and shall be provided with not less than the following equipment:

For direct current.—A main double pole, National Electrical Code, fused-knife switch of proper capacity arranged for enclosed National Electrical

Code fuses, except that fuses of one-half ampere capacity or less need not be enclosed if properly guarded. These fuses to be approximately 10 per cent in excess of maximum charging rate of batteries.

Underload circuit breaker of approved type.

Volt meter.

Ammeter, arranged to read charging rate.

Milliammeter, arranged to read current flow through closed circuit or circuits.

Double throw switch for changing from one set of batteries to the other, so arranged that the working circuits cannot be opened during the process of shifting.

Double pole, double throw charging switch.

FIXED RESISTANCE

Fixed resistance units (National Electrical Code standard) to be provided, one in each leg of the charging circuit of such a value as the operating conditions may warrant, but in no case shall the charging rate be in excess of two-thirds of the normal charging rate of the storage cells unless a variable charging rate is required. (See Variable Resistance.)

VARIABLE RESISTANCE

One-third of the total resistance to be used shall be fixed in each leg of the charging circuit, and the balance provided with approved shifting device for varying the charging rate; the minimum resistance to be such that the batteries cannot be charged in excess of their normal charging rate. Resistance in any case shall not unduly heat.

Lamps for resistance will not be accepted.

Each circuit shall be provided with fuses of a capacity 50 per cent in excess of the combined charging rate.

MOTOR GENERATORS

Motor generators of suitable capacity and standard design may be used for charging storage batteries and when used shall be installed in accordance with National Electrical Code rules and a proper field regulator provided in addition to regular switchboard equipment referred to above, except that resistance in charging circuit will not be required.

FOR ALTERNATING CURRENT

When alternating current is used for charging storage batteries, approved motor generator or rectifying sets with necessary transformer, National Electrical Code standard, shall be provided, together with approved switchboard equipment.

NOTE.— Rectifiers may be installed only where they will be under competent supervision. When electrolytic rectifiers of a type and design bearing the approval of the Industrial Board are employed, a reserve set of electrodes and charge of salts shall always be on hand.

ELECTRIC LIGHT AND POWER SYSTEM*(Public Service or Isolated Plant)***SUPPLEMENTED BY A STORAGE BATTERY AND***Private (Isolated) Plant as Preferred Source***SUPPLEMENTED BY PUBLIC SERVICE LINES**

Systems of this character are special, and complete details of installation shall be submitted for approval to the Industrial Board.

The Industrial Board may waive the requirement of a supplementary storage battery when the service furnished by the public service lines in any district or community is deemed by the Board to be adequate to all demands upon it, and for such districts or communities and for such periods as the Board may, from time to time, determine.

PRIMARY BATTERIES

The battery on the closed circuit shall be in duplicate when constituting the only source of energy and be provided with a base of porcelain or other approved material, and with a double pole, double throw, knife blade type switch of approved design, so arranged that when changing from one set of batteries to the other, the circuit cannot be broken. It shall consist of approved closed circuit cells of not less than 300 ampere hours capacity, except that other approved types of cells may be used in closed circuits containing no fire alarm boxes.

The voltage on any circuit where primary batteries are used shall not exceed 40. (The working voltage of approved closed circuit cells is .65 per cell.)

All batteries shall be coupled together by means of approved type battery connectors.

All batteries shall be placed in a substantial protecting cabinet, elevated not less than six inches nor more than five feet above the floor, located in a clean, dry and cool place, and where the temperature will be not less than 40 degrees Fahrenheit nor more than 100 degrees Fahrenheit.

Main battery cabinets shall be so constructed that the condition of the elements may be observed without disturbing the cells.

BATTERY CABINETS

METAL.— Shall be of approved type, constructed of sheet iron or steel, not less than No. 14 gauge, properly reinforced by 1-inch angle iron. Doors shall be self-closing and provided with an approved lock and key.

Cabinet shall be provided with wood shelves not less than 7/8-inch thick and properly fastened and secured to prevent sagging.

The interior and the exterior of the cabinet shall be painted with three coats of asphaltum compound, each coat to be thoroughly dry before the next is applied; or baked enamel will be accepted in lieu thereof.

WOOD.— Battery cabinets shall be constructed of the best grade of kiln dried white wood or ash, not less than 7/8-inch thick. Cabinet shall be provided with two self-closing doors and approved lock. Shelves shall be not less than 7/8-inch thick, properly fastened and secured to prevent sagging.

All parts shall be properly fitted and cabinet shall be of substantial construction.

Cabinet shall be painted on the interior with three coats of asphaltum compound and on the exterior with three coats of lead paint or two coats of varnish.

Cabinet shall be thoroughly ventilated.

FOR ALL OTHER TYPES OF CELLS

All provisions of the specifications for battery cabinets for lead storage cells shall apply for all other types of cells, except that the painting or enameling may be omitted.

Where dry cells are housed in metal battery cabinets, the supports for same shall be so constructed that it will be impossible for the cells to come in contact with the metal of the cabinet. In all cases where dry cells are used provision shall be made to prevent their cartons from coming in contact with each other.

EXISTING FIRE ESCAPES OF FACTORIES

[Supplementary to Labor Law, §§ 79-a to 79-f; adopted and effective July 30, 1914]

Rule 380.—When, in addition to the required exits of any factory or factory building, there exist one or more outside fire escapes which are not entirely in accordance with the provisions of the Labor Law relating to fire escapes, such fire escapes may be retained without being changed to conform to such provisions, if steps are taken, satisfactory to the Commissioner of Labor, to prevent their use as means of egress, and provided that such fire escapes are maintained in good repair.

NOTE.—The Commissioner of Labor has ruled that such fire escapes must be structurally safe and that they shall not be used for fire drills.

At the openings leading to such fire escapes there shall be placed a sign, with letters eight inches high, reading "THIS IS NOT AN EXIT." No barrier or guard will be permitted at these openings.

FACTORY ELEVATORS AND HOISTWAYS

[Supplementary to Labor Law, §§ 79, 79-a; adopted November 24 and December 18, 1914; effective January 1, 1915; readopted with amendments, effective April 15, 1915]

FILING OF PLANS FOR FUTURE INSTALLATIONS

Rule 400.—Before any elevator shall hereafter be installed or reconstructed, the owner of the building, or the person contracting to make such installation or reconstruction, shall file with the Commissioner of Labor plans showing the type and general arrangement of the machinery and equipment as will be installed. Lifting capacity and speed of elevator must be specified on plans.

DEFINITIONS

Rule 401.—The term "passenger or employees' elevator," as used in these rules, shall be construed to mean an elevator either of the passenger or freight type on which passengers or employees are generally permitted to ride.

The term "freight elevator" shall be construed to mean an elevator on which no one except the operator and employees necessary for loading and unloading the elevator are permitted to ride.

The term "dumb waiter" shall include such special form of elevator the dimensions of which do not exceed sixteen (16) square feet in horizontal section and four (4) feet in height and which is used exclusively for the conveyance of small packages and merchandise.

HOISTWAY ENCLOSURES

Rule 402.—Existing hoistways used for passenger and employees' elevators shall have enclosures extending from floor to ceiling on all sides where there are door openings into the car. The door openings in the hoistway enclosures shall have gates or doors that will fully guard and protect the opening. On all other sides of the hoistway where there are no openings into the car the hoistway shall be enclosed not less than six feet high. Such hoistway shall be enclosed by walls, windows, screens or partitions.

Rule 403.—Existing hoistways, or hoistways reconstructed in an old building, used for freight elevators, shall have enclosures not less than six feet high on all sides of the hoistway where there are no openings into the car; no enclosures will be required on the sides of the hoistways that have openings into the car other than the protection specified in rules on hoistway gates or doors.

Hoistway ledges shall have smooth bevel guards set directly under all projections as specified in Rule 405.

Rule 404.—For future installations in new buildings, the hoistway enclosures for all passenger and employees, and for freight elevators shall extend from floor to ceiling on all sides and on each story of the hoistway.

The enclosure shall be set close to the hoistway line, allowing only necessary space for the doors and their fastenings between the enclosures and the edge of the floor sill.

The hoistway door openings shall have gates or doors that will fully guard and protect the openings.

Such hoistway enclosures, gates and doors shall in all respects comply with the requirements prescribed for the prevention of fire, by the Labor Law.

Rule 405.—All ledges or floors in front of car openings that project more than one (1) inch from the inside of the hoistway enclosure shall be fitted with smooth beveled guards set directly under the projections. The slope of the guard shall be at least eighty (80) degrees from the horizontal wherever local conditions will permit. No beveled guards shall be permitted with slope less than sixty (60) degrees from horizontal.

HOISTWAY GATES OR DOORS

Rule 406.—In existing and future installations sliding hoistway gates or doors used for passenger and employees' elevators shall be full automatic, manually operated, self-closing, or equipped with interlocking devices. When doors are manually operated, they shall be fitted with a substantial lock or latch and so arranged that they cannot be opened from the outside except with a key. This rule shall also apply to vertical sliding gates or doors, except that doors so constructed that a section slides up and a section slides down shall be provided with a device which will prevent the car from leaving the landing until the gates or doors are closed.

Rule 407.—Vertical or horizontal sliding gates or doors for freight elevators that were installed previous to the adoption of these rules may remain in place as installed, provided the gates or doors are sufficiently high and strong for the particular requirements where they are used.

When gates are less than five feet six inches (5' 6") high and are set closer than twelve (12) inches from the hoistway line, tell-tale chains not less than four (4) feet long and six (6) inch centers shall be suspended from the landing edges of the car platform.

Rule 408.—Hinged or swinging gates or doors may be used for elevators that carry passengers and employees or for freight elevators. Such gates or doors shall be manually operated or self-closing; when manually operated, they shall be provided with electric contact or such other devices, approved by the Commissioner of Labor, as will insure the gates or doors being closed and locked before the car can start from the landing. When such doors or gates are self-closing, auxiliary gates of approved type shall be provided.

When manually operated double-swinging doors or gates are used, the closing of electric contact devices shall be dependent on the closing of each door.

When an electrical contact device is used it shall be provided with an enclosed switch in the car to temporarily short circuit the contact wiring in cases of emergency.

Keys shall be available for unlocking such gates or doors from the outside in emergency cases.

Rule 409.—The cross bars of vertically sliding enclosure gates or doors for freight elevators shall be sufficiently strong to resist one hundred and fifty (150) pounds pressure at the middle of the span without permanent deformation of the gate or door or their fastenings. The bars of the gate shall be spaced so there will not be more than two (2) inches between the bars.

Rule 410.—Vertical sliding hoistway gates or doors hereafter installed for freight elevators shall be self-closing or manually operated and if manually operated shall be equipped with a device which will insure the doors or gates being closed before the car leaves the landing. When set less than twelve (12) inches from the hoistway line, they shall be not less than five feet six inches (5' 6") high and not more than ten (10) inches above the floor; when it is impracticable to comply with these provisions the Commissioner of Labor shall have authority to modify this rule to suit individual conditions.

Rule 411.—Vertical sliding hoistway gates or doors hereafter installed for freight elevators shall be self-closing or manually operated and if manually operated shall be equipped with a device which will insure the doors or gates being closed before the car leaves the landing. When set twelve (12) or more inches from the edge of the hoistway line they shall be not less than three feet six inches (3' 6") high and not more than ten (10) inches from the floor; when it is impracticable to comply with these provisions the Commissioner of Labor shall have authority to modify this rule to suit individual conditions. Tell-tale chains not less than four (4) feet long shall be suspended two (2) inches from the edge of the car platform sills and spaced six (6) inches between centers across the width of the opening. When automatically operated trap doors are used in the hoistway, it will be unnecessary to provide tell-tale chains attached to the car platform.

Rule 412.—Automatically operated trap doors so constructed as to form a substantial floor surface when closed, and so arranged as to open and close by the action of the car in its passage both ascending and descending, shall be permitted, provided that in addition to such trap doors the hatchway shall be adequately protected on all sides at all floors, including the basement, by a substantial railing or other vertical enclosure at least three feet six inches (3' 6") high; such railing or vertical enclosure shall be placed at least twelve (12) inches from the hoistway line on all sides of the hoistway.

GRILLE WORK

Rule 413.—In all cases where the law or rules permit grille work enclosing the shaft or car, it shall be of substantial material and construction, properly braced and fastened, and unless otherwise specified in these rules, there shall not be more than one and one-half ($1\frac{1}{2}$) inch space between any two (2) members of said grille work except that where plain straight bars are used, not filled in with scroll, there shall not be more than one (1) inch space between members, providing that in existing installations where the spaces exceed those specified in this rule it shall be deemed satisfactory if the grille work is made safe by suitable screen or wire mesh fastened to the hoistway or car enclosure.

PASSENGER OR EMPLOYEES' ELEVATOR CARS

Rule 414.—Passenger or employees' elevator car door openings shall have doors or gates that shall be kept closed while the car is in motion unless the hoistway enclosures and doors on the open sides of the elevator are set so there is no more than three (3) inches clearance between the car platform and the hoistway enclosures and door at all points throughout the car travel.

No locks will be required on the car gate or door adjacent to the operator. All other gates or doors in the car except emergency exits shall have latches or locks that will prevent their being opened except when the car is at the landing, or they shall have electrical contacts or other approved devices that will stop the car in case any such gate or door is opened.

Rule 415.—The cars of all elevators used for carrying passengers or employees shall be substantially enclosed on all sides including the top, and shall have a trap door in the top of the car of such size as to afford easy egress for passengers or employees. Where two (2) or more cars are in the same shaft, emergency doors may be provided in the side of each car so that passengers or employees may pass from one car to another in case of emergency. The car roof shall be sufficiently strong to support the weight of a man.

Rule 416.—The lifting capacity of elevators hereafter installed used for carrying passengers or employees shall be not less than seventy-five (75) pounds for each square foot of car floor area.

FREIGHT ELEVATOR CARS

Rule 417.—All freight cars shall have substantial enclosures not less than five feet six inches (5' 6") high on all sides not used for loading and unloading. When the enclosure is made of slats or bars the spacing shall be close enough to prevent a foot or hand being thrust through into the path of the counterweight or projections in the hoistway.

Rule 418.—The top of freight elevators shall be provided with a substantially constructed cover or grating made of not less than No. 8 gauge wire and not more than one and one-half ($1\frac{1}{2}$) inch mesh, or its equivalent in strength. No part of such cover or grating or of its supports shall be placed across the top of a freight car within eight (8) inches of the hoistway on its open sides, unless the car opening is equipped with a gate or door. Sections of the cover may be arranged to swing upwards for handling bulky material.

Rule 419.—Freight elevators hereafter installed in factory buildings where more than one hundred (100) people are employed on one floor, in order to be available in case of emergency shall be capable of safely lowering a live load of not less than fifty (50) pounds per square foot of its platform area.

CAR AND COUNTERWEIGHT CLEARANCES IN PIT AND OVERHEAD

Rule 420.—For existing power elevators, except carriage hoists and sidewalk type elevators, the hoistway pit shall have sufficient depth so the car may stop level with the landing at the lowest terminal when descending empty, and shall not strike the bottom of the pit when descending with a full capacity load in the car.

Rule 421.—In future installations there shall be not less than six (6) inches clearances between the under side of the car frame and the pit for cars of fifty (50) feet or less normal speed, and the clearance shall be increased six (6) inches for every fifty (50) feet additional normal car speed. Three (3) feet clearance between the under side of the car frame and the pit shall be the maximum space required. Buffers shall be installed in the pit to bring the car to rest without serious shock. The hoistway shall have sufficient head room to permit the car when empty to ascend and stop on the terminal automatic stops, and for cars of normal speed of one hundred (100) feet or less per minute the clearance between the car frame and the ceiling to overhead beams shall be not less than eighteen (18) inches; for each fifty (50) feet increase in normal car speed the clearance shall be not less than (6) inches additional. Five (5) feet clearance between the top of the car frame and the overhead grating ceiling or beams shall be the maximum space required when the car is at its top landing.

Rule 422.—In future installations the clearance space between the top of the counterweight and the overhead beams when the car strikes the pit buffers, shall be not less than eighteen (18) inches for cars of one hundred (100) feet per minute, and the clearance space shall be six (6) inches additional for every fifty (50) feet increase in normal car speed. Three (3) feet shall be the maximum clearance required, except for installations where the descending car has its speed diminished when entering the pit by long stroke buffers or other devices in addition to the usual machine slow down. In such cases allowance may be made for the car retardation and the clearance correspondingly decreased.

SAFETY EQUIPMENT

Rule 423.—All elevators that are used for carrying passengers or employees, and all freight elevators, unless otherwise specified in these rules, shall have safety devices of types approved by the Commissioner of Labor, that will grip the guide rails and retard and hold the car with its full load, whenever the safeties are released or applied. In future installations, the safety devices shall be located under the car platform.

Rule 424.—All elevators installed after these rules take effect shall be equipped with a speed governor whose action will trip and release the safeties whenever the car attains a downward speed of not more than two hundred (200) feet per minute for elevators whose normal speeds are not over one hundred and fifty (150) feet per minute, and for greater car speeds the governor shall release the safeties before the car has attained a downward speed not more than forty (40) per cent in excess of the normal car speed. No governor or governor rope fastening shall be set or fastened in the path of the elevator. The governor and safeties shall be of a type and capacity approved by the Commissioner of Labor.

Car safeties will not be required on direct plunger elevators, nor for sidewalk type elevators which travel not more than thirty (30) feet between terminal landings.

Rule 425.—The cars shall be properly lighted at all times when they are in service; artificial illuminants shall be used when necessary.

Rule 426.—The car switch, lever or other controlling devices in elevators hereafter installed shall be located so the operator can readily handle the controller while facing the principal car opening. This rule shall also apply to existing installations when deemed necessary by the Commissioner of Labor.

Rule 427.—The car switch, lever or hand rope used for controlling the car shall be placed near one of the main loading sides of the platform. Where a hand rope or other controlling device is located outside of the car platform a slot or section may be cut out of the car enclosure to enable the operator to reach and operate the controller.

Rule 428.—A substantial grating to carry a load of not less than five hundred (500) pounds shall be installed under the overhead sheaves and in any open spaces over an elevator hoistway that is not otherwise protected.

Rule 429.—Whenever a freight elevator is used without a regular operator it must be provided with a locking device that will hold the controller in "stop position" while the car is being loaded or unloaded.

FACTORS OF SAFETY

Rule 430.—All power driven elevators hereafter installed shall have no less than two (2) hoist ropes and two (2) ropes attached to each counterweight. All passenger or employees' elevators shall have hoist and counterweight ropes and their fastenings with factor of safety when new of not less than eight (8) and on freight elevators the factor of safety shall not be less than six (6), based on the total weight supported by the ropes when the elevator is loaded to its full rated capacity. Hoist ropes or cables shall be replaced when they become unsafe from wear, bruise or fracture. The ends of all hoist ropes shall be securely fastened and there shall be not less than one full turn thereof on machine drums.

Rule 431.—All hoisting machinery used in connection with an elevator shall have sufficient strength and power for the service for which it is used and shall be so equipped as to insure safe operation. All elevators shall have limit stopping devices in the hoistway and on the machine and they shall be kept adjusted so as to automatically bring the car to rest at both limits of travel.

COUNTERWEIGHTS

Rule 432.— Gate or door counterweights shall be guarded on all exposed sides.

Rule 433.— In future installations, all counterweights shall have their sections strongly secured together with tie rods passing through all the weights.

Rule 434.— Where there is danger of physical injury to persons by contact with counterweights at the bottom of the counterweight runway, the weights shall be guarded on both sides with substantial metal shields made of not less than No. 16 gauge iron or steel plates, or other material of equal strength. The height from the floor to the top of the shields shall be not less than six feet six inches (6' 6") and the shields shall extend to within eighteen inches of the floor. In existing installations where the clearance space between the car and the counterweight is insufficient to install a metal shield, the counterweight may be guarded on one side only with a metal shield of the same height as above or a wall or partition. Where the counterweight is guarded on one side only, four (4) tell-tale chains not less than four (4) feet long shall be suspended from the bottom of the counterweight.

Rule 435.— At the upper terminal of the counterweight runway the counterweights used for elevators with drum type machines shall be guarded for a distance of eight (8) feet from the overhead beams.

Rule 436.— Counterweight guards at the upper terminal will not be required for elevators operated by plunger or piston type of hydraulic machines with fixed stroke, nor for elevators with traction rope drive where the counterweight cannot be drawn into the overhead beams.

Rule 437.— Counterweights that pass through the floors outside of the hoistway shall be guarded throughout their entire travel.

CARRIAGE HOISTS

Rule 438.— Power-driven carriage type hoists, installed prior to January 1, 1915, where the platform has hoist ropes fastened to its four corners, and without overhead car beam and car safeties, may be used for travel not exceeding fifty (50) feet between terminal landings. Hoistways for such carriage hoists shall be guarded in the same manner as hoistways used for freight elevators. (See Rule 403.) No person shall be permitted to ride on such hoists, and signs to that effect shall be posted on the enclosure.

HAND-POWER ELEVATORS

Rule 439.— Hand-power operated elevators may be used for travel not to exceed seventy-five (75) feet between terminal landings. The car shall be provided with safeties that will immediately stop and hold the car with its full load if the hoist ropes should break. An enclosure not less than five feet six inches (5' 6") high shall be placed on all sides of the platform not used for loading or unloading, unless the vertical hoistway enclosure is run continuous from floor to ceiling on all sides of the hoistway. Tell-tale chains four (4) feet long and six (6) inch centers shall be suspended from the landing edges of the platform if the hoistway gates are less than five feet six inches (5' 6") high.

Rule 440.— Slots not more than ten (10) inches wide and not less than two (2) feet from the floor may be cut out of the hoistway enclosure in order to

facilitate the operation of the pull rope from the landing floor. When the pull rope is located in front of the elevator entrance the enclosure gate may be two feet six inches (2' 6") high from the floor, provided that tell-tale chains not less than four (4) feet long and six (6) inch centers are suspended from the bottom of the car platform across the full width of the opening.

EXIT FACILITIES

Rule 441.—In future installations, no elevator or hoistway shall be permitted to descend into a passageway. After January 1, 1916, in existing installations, where it may be necessary to maintain a passageway under an elevator or hoistway, there shall be provided a substantial floor or bulkhead with not less than seven (7) feet head room from the floor of the passage. The lowest terminal of such elevator shall be above the bulkhead.

Rule 442.—In all factory buildings there shall be passageways or unobstructed means of exit leading from the elevator to the outside of the building when the elevator is at the lowest point of its travel.

SIGNS

Rule 443.—All elevator cars shall have a conspicuous sign which shall show the load that can be safely carried on the elevator.

MAINTENANCE

Rule 444.—All parts of the elevator machinery and the hoistway and car safeties shall be kept in good condition and shall be regularly inspected by some person competent to perform such service. Monthly inspection reports showing the condition of the elevator and hoistway shall be prepared and signed by the person making such inspection; the reports shall be made on a form prescribed by the Commissioner of Labor and shall be kept on file for his examination.

Rule 445.—Every elevator used for carrying passengers or employees must be in charge of a competent and reliable operator not less than eighteen years of age. This rule shall not apply to push button or automatically operated type elevators.

FIREPROOF AND FIRE-RESISTING MATERIAL — FACTORY CONSTRUCTION AND TESTS

[Under authority of Labor Law, § 79-f, subd. 2; adopted October 29, 1914; effective November 15, 1914; the State Industrial Board issues pamphlet lists of approved floor, roof and partition construction; the first of these lists has been published, January 1, 1915, as a Supplement to Bulletin No. 7 of the Industrial Code]

SPECIFICATIONS OF FIREPROOF MATERIALS

FLOORS AND ROOFS

[Supplementary to Labor Law, § 79-a, subd. 1, § 79-f, subd. 1; for standard test see Rule 508]

Rule 500.—All floors and roofs shall be constructed of steel or reinforced concrete beams and girders filled in between with (a) Segmental brick arches, having a rise of not less than 1 inch per foot of span, and a thickness of 4 inches and 8 inches respectively, for spans less or greater than 5 feet;

(b) Or, hard burned, semi-porous or porous terra cotta hollow tile arches, with shells not less than $\frac{3}{4}$ inch thick and webs not less than $\frac{5}{8}$ inch thick, and laid in Portland cement mortar, and having an effective depth of not less than $1\frac{1}{2}$ inches per foot of span in the case of flat arches, and a rise of not less than 1 inch per foot of span in the case of segmental arches. Segmental arches shall be not less than 6 inches in thickness; flat arches shall be not less than 8 inches in thickness;

(c) Or, reinforced stone concrete, consisting of one (1) part Portland cement and not more than six (6) parts of a properly proportioned aggregate consisting of sand and stone passing a 1-inch ring, and not less than 4 inches thick in the case of floors, and not less than $3\frac{1}{2}$ inches thick in the case of roofs designed in accordance with the current regulations suggested in the report of the joint committee on concrete and reinforced concrete of the American Society of Civil Engineers, American Society for Testing Materials, American Railway Engineers Association and the Association of American Portland Cement Manufacturers;

(d) Or, any form of construction not less than 4 inches thick in the case of floors and not less than $3\frac{1}{2}$ inches thick in the case of roofs which shall have passed successfully a standard four-hour fire, load and water test.

FIREPROOF PARTITIONS

[*Supplementary to Labor Law, § 79-a, subds. 3, 6, § 79-f, subds. 1, 5; for standard test see Rule 509*]

Rule 501.—Fireproof partitions when specified by the provisions of the Labor Law shall be built of

(a) Brick or concrete not less than 8 inches in thickness for the uppermost 40 feet, increasing 4 inches in thickness for each additional lower 40 feet or part thereof; or when supported at vertical intervals of not over 40 feet, not less than 8 inches in thickness throughout their entire height;

(b) Or, terra cotta blocks as described in Rule 500 not less than 6 inches in thickness, supported at vertical intervals of not over 25 feet;

(c) Or, reinforced stone concrete of the same mixture as required for floors and roofs described in Rule 500 not less than 4 inches in thickness, supported at vertical intervals of not over 25 feet;

(d) Or, reinforced cinder concrete consisting of one (1) part Portland cement and not more than seven (7) parts of a properly proportioned aggregate of sand and cinders, not less than 4 inches in thickness, supported at vertical intervals of not over 18 feet;

(e) Or, any form of construction, when safely supported, which shall have successfully passed a standard three-hour fire and water test.

The supporting steel framework of all partitions shall be properly encased on all sides with not less than 2 inches of fireproof material, securely fastened to the steel work. The reinforcement shall be protected by not less than $\frac{3}{4}$ inch of fireproof material on each side. All fireproof partitions shall be properly braced at the floor levels, through which they pass.

FIRE DOORS

[*For buildings erected after October 1, 1913; supplementary to Labor Law, § 79-a, subd. 6, § 79-f, subd. 6; for standard test see Rule 510*]

Rule 502.—Fire doors in buildings erected after October 1, 1913, when specified by the provisions of the Labor Law for elevator and stairway

enclosures and openings in fire walls, are doors of any of the following materials and form of construction:

(a) *Tin clad*.—Three thicknesses of $\frac{7}{8}$ -inch dressed, tongued and grooved white pine or other non-resinous wood board not more than 8 inches wide, securely clinched with wrought iron nails, and covered with 14-inch by 20-inch sheets of terne plate of at least 1 C. quality, joints locked full $\frac{1}{2}$ inch and nailed under seams with at least 12 $\frac{1}{2}$ gauge flat head, full barbed wire nails, 2 inches long.

(b) *Plate iron*.—Wrought iron or steel plates at least $\frac{3}{16}$ inch thick, having 2-inch by 2-inch by $\frac{3}{8}$ -inch angle iron stiles and rails, centre rails and centre stiles on one face, or 3-inch by $\frac{1}{4}$ -inch flat bar stiles and rails on both faces; no unstiffened panel shall be more than 9 square feet in area; all parts shall be securely riveted with $\frac{3}{8}$ -inch iron rivets.

(c) *Composite*.—A skeleton framework of at least 1 $\frac{1}{2}$ -inch by $\frac{1}{4}$ -inch channels, angles or T's covered on both sides with at least $\frac{1}{8}$ -inch wrought iron or steel plates, filled solid with mineral fibre, asbestos, gypsum or other incombustible material.

(d) *Or, any form of door construction* that shall have successfully passed a standard one hour fire and water test.

(e) Fire doors in buildings erected after October 1, 1914, for other than stairway and elevator enclosures and openings in fire walls, are doors which shall meet the requirements of Rule 507-c.

All fire doors shall be provided with approved self-closing devices and approved incombustible sills, frames and hardware, or, in lieu of frames, shall lap the sides and top of openings at least 4 inches. Sliding doors shall lap the sides and top of openings at least 4 inches.

The name of the manufacturer shall be placed on every fire door in such manner as to be easily seen when door is in place.

FIREPROOF WINDOWS

[*Supplementary to Labor Law, § 79-a, subd. 6, § 79-f, subd. 7; for standard test see Rule 511*]

Rule 503.—Fireproof windows when specified by the provisions of the Labor Law are stationary or self-closing windows of wired glass, with selvage removed, not less than $\frac{1}{4}$ inch thick, with panes not greater than 720 square inches, nor more than 48 inches in any dimension, each pane of glass set between stops and rabbets at least $\frac{3}{4}$ inch deep with bearings of at least $\frac{5}{8}$ inch at all points, with incombustible material for weather-proofing. The frames for holding the wired glass shall not exceed 5 feet by 9 feet between supports, and frames and sash shall be constructed of

(a) *Masonry*.—That is, the glass may be set directly in the masonry opening, with bearings other than in muntins at least 1 $\frac{1}{4}$ inches at all points;

(b) *Or, hollow-sheet metal* at least No. 24 U. S. standard gauge galvanized iron, or 20-ounce copper. The several parts of the frames and sash to be of one piece of metal where possible. All joints to be made with interlocking seams, or riveted or brazed in a substantial manner. No soldered joints to be used in essential parts;

(c) *Or, wrought iron or steel* of the following minimum dimensions, frames 3 $\frac{1}{2}$ -inch by $\frac{3}{8}$ -inch flat iron, welded or riveted; sash 1 $\frac{1}{2}$ -inch by 1 $\frac{1}{2}$ -inch

by $\frac{1}{4}$ -inch angle iron, welded at corners; muntins $1\frac{3}{4}$ -inch by $1\frac{1}{2}$ -inch by $\frac{1}{4}$ -inch T-iron, welded to each other at each intersection and to the stiles and rails. Stops holding the glass in the frames to be 1-inch by 1-inch by $\frac{1}{8}$ -inch angle iron, fastened with bolts, so that they can be removed for reglazing;

(d) Or, *metal covered*.—Wood covered with at least 24 U. S. standard gauge galvanized iron, or 20-ounce copper. The several parts of the frames and sash to be covered with one piece of metal where possible. All joints to be made with interlocking seams, or riveted, or brazed in a substantial manner. No soldered joints to be used in essential parts. The metal to be continuous around all parts of the frame and sash, behind all beads, and must be turned back between the frame and masonry on both faces for at least 1 inch and be securely fastened to the frame by flat head, full barbed wire nails not less than $\frac{3}{4}$ inch long.

(e) Or, *any form of frame and sash* that shall have successfully passed a standard *three-quarter hour* fire and water test.

Mullions dividing fireproof windows shall in all cases be either solid masonry at least 12 inches wide outside face or I beams not less than 5 inches in depth or other metal section of equal strength, fireproofed with at least 2 inches of fireproofing, the metal frames to be securely attached to the reinforcing members. Where movable sash is used, it shall close automatically by the failure of a fusible link, or by other approved means of effecting closure.

The name of the manufacturer shall be placed on every fireproof window in such manner as to be easily seen when window is in place.

FIRE-RESISTING MATERIAL

[*Supplementary to Labor Law, § 79-b, subd. 2; for standard test see Rule 512*]

STAIRWAY ENCLOSURES

Rule 504.—(a) Any form of fireproof partition as previously defined.

(b) Any form of partition construction that has successfully passed a standard one hour fire and water test;

(c) Or, wood studs not less than 2 inches by 4 inches lathed each side with at least No. 24 U. S. standard gauge metal lath and plastered with Portland cement mortar finishing at least $\frac{3}{4}$ inch thick on each side;

(d) Or, wood studs not less than 2 inches by 4 inches properly bridged to support filling and filled in with mineral wool, asbestos, gypsum, or other similar incombustible material, packed to density of at least 25 lbs. per cubic foot, or cinder fill one to ten mix, covered on each side with plaster board, or asbestos board, at least $\frac{3}{8}$ inch thick, and plastered with Portland cement mortar, finishing at least $1\frac{1}{8}$ inches thick, including board thickness, or covered on each side with metal lath or wire netting nailed directly to the studs, and plastered with Portland cement mortar, finishing at least $\frac{3}{4}$ inch thick;

(e) Or, wood studs not less than 2 inches by 4 inches filled in with masonry four inches thick, and plastered on each side with Portland cement mortar finishing at least $\frac{3}{4}$ inch thick;

(f) Or, existing wood stud, lath and plaster partitions, stripped of all wood base and other trim and covered with at least No. 24 U. S. standard

gauge metal lath on each side, firmly secured to the studs by staples through the existing lath, and plastered on each side with Portland cement mortar, finishing at least $\frac{3}{4}$ inch thick.

(g) Any form of partition construction that has successfully passed a standard one hour fire test.

Rule 505.— Fire-resisting partitions shall be continued through wood floors or shall extend from the upper side of the wood floor in any story to the underside of the wood floor and timbers in the story above to which they shall be safely secured, and shall form, with the fire-resisting doors, floors and ceilings, an unbroken fire-resisting protection, separating the stairway and exit passageways from the non-fire-resisting portions of the building. In unfilled wood stud partitions, the space between the beams shall be fire stopped by approved fire-resisting materials.

In general, fire-resisting partitions shall be self-supporting or safely supported on fireproofed steel or reinforced concrete beams, girders and columns, or upon wood beams, girders and columns made fire-resisting by approved fire-resisting materials.

In special cases, in existing buildings, where the fire-resisting partitions are not in a vertical line, they may rest upon wood beams and girders, provided, that all the header and trimmer beams supporting said partitions are made fire-resisting by approved fire-resisting materials on that portion where the extreme fibre stress exceeds three-quarters of the safe allowable working stress.

Wire glass not less than $\frac{1}{4}$ inch thick will be permitted in fire-resisting partitions and doors when set in stationary fireproof sash and frames, not exceeding, however, 360 square inches for any single pane of glass and not exceeding 720 square inches on any story. Provided that in each case, the approval for the use of wire glass is given by the Commissioner of Labor.

Rule 506.— Fire-resisting partitions, now in place, constructed in such manner and of such fire-resisting material, as have heretofore been approved by the local authorities exercising supervision over the construction and alteration of buildings, will be accepted when complying with the following requirements:

(a) Each side of existing partition covered with $\frac{1}{2}$ -inch approved plaster board protected by not less than 26 U. S. standard gauge metal, both nailed to the woodwork.

(b) Each side of the existing partition covered with 2 thicknesses of $\frac{1}{4}$ -inch approved asbestos board with staggered seams, provided that where in the opinion of the Commissioner of Labor protection is necessary against mechanical injury, such protection shall be provided.

(c) And in buildings not over 6 stories in height existing wooden partitions, double thickness, $\frac{7}{8}$ -inch board covered on both sides with 20 U. S. standard gauge metal, or with 26 U. S. standard gauge metal with lapped seams.

FIRE DOORS

[For buildings erected prior to October 1, 1913; supplementary to Labor Law, § 79-b, subds. 2, 4, § 79-f, subd. 6; for standard test see Rules 510, 518]

Rule 507.— Fire doors in buildings erected prior to October 1, 1913, when specified by the provisions of the Labor Law are doors of the following materials and form of construction:

- (a) Any form of fire door as previously defined in Rule 502;
- (b) Any form of fire door that has been heretofore installed which shall meet the approval of the Commissioner of Labor;
- (c) Or, any door that shall have successfully passed a one-hour fire test. (See Rule No. 513.)

All fire doors shall be provided with approved self-closing devices and approved incombustible sills, frames and hardware or, in lieu of frames, shall lap the sides and top of openings at least 4 inches. Sliding doors shall lap the sides and top of openings at least 4 inches.

The name of the manufacturer shall be placed on every fire door in such manner as to be easily seen when door is in place.

STANDARD TESTS

NOTE.— In Rules 508 to 513, following, are given the methods of conducting tests to determine the fire-resisting qualities of various materials and forms of construction used in building practice. These methods are stated in full detail, as to the construction of the test huts or chambers, the method of conducting the tests and recording the results of same, in order to fully set forth for immediate use the course of procedure to be followed for the purpose of obtaining the approval of any new material or form of construction.

However, the Industrial Board may recognize tests and methods of testing, other than those hereinafter specified, when the same are of equal severity, and when duly authenticated records of such tests are submitted. To be acceptable, such other tests shall have been arranged on scientific lines and conducted at laboratories of recognized standing by disinterested scientific men. All reports of such tests shall state the facts and occurrences, and shall be accompanied with tables, diagrams, illustrations and a log of the test in sufficient detail to give an accurate description of the test specimen, a complete record of the skilled conduct of the test and the effect of the test upon the construction under observation. A list of the professional men in attendance shall accompany each report.

TEST OF FIREPROOF FLOORS AND ROOF CONSTRUCTION

[See Rule 500]

Rule 508.— The test structure may be located at any place convenient to the applicant subject to the approval of the Industrial Board, where all the necessary facilities for properly conducting the test are provided.

The entire expense of the tests is to be sustained by the applicant.

It is understood that the workmanship and materials in the test structure represent ordinary conditions, constructed as in actual practice, with the quality of material ordinarily used in that system as in a finished floor.

If the proposed construction is approved, the standard of workmanship and material is to be maintained in any and all work thereafter constructed. The maximum thickness of fireproof protection upon the exposed parts of the beams and girders of the system tested must be maintained thereafter in actual installation.

The walls of the test structure may be constructed of any material and thickness that will carry the imposed load and safely withstand and confine the fire for the required time.

The floor or construction to be tested shall form the roof of the test structure.

At a height of not less than 2 feet 6 inches nor more than 3 feet above the ground level, a metal grate, properly supported shall be provided, covering the whole inside area of the building.

In the walls below this grate level, draught openings shall be provided, as many as possible, furnishing openings with an aggregate area of not less than 1 square foot for every 10 square feet of grate surface. Means for temporarily closing these openings should be provided.

In the wall, immediately above the grate level, a firing door, 3 feet 6 inches by 5 feet high, must be provided in the side of the building at right angles to the floor beams. A second door must be added when the span of the floor slab under test exceeds 10 feet.

Flues should be supplied at each of the corners, and oftener in case of a test structure exceeding 250 square feet of grate surface, with sufficient opening to insure a proper draught, securely supported and disposed at the sides of the structure in such manner as not to rest on the floor under test. In no case should a flue area be less than 180 square inches.

The horizontal dimensions of the test structure will depend upon the number and the span of the systems under consideration. The clear span of the floor beams is to be not less than 14 feet. The distance between floor beams, or span of slab, may be varied according to the design of the system to be tested, and should be as near as possible to usual practice. The underside of the construction under test must be not less than 9 feet 6 inches nor more than 10 feet above the grate level.

The construction to be tested should be designed for a working load of 150 pounds per square foot. The load is to be uniformly distributed in segregated piles without arching effect, and is to be carried on the floor during the fire test.

The floor may be tested as soon after construction as desired but within forty days. Artificial drying will be allowed if desired.

No plastering shall be applied to the underside of the floor construction under test.

The floor shall be subjected for four hours to the continuous heat of a fire of an average temperature of not less than 1700° F.; the fuel used being either oil, wood, gas, or other fuel, so introduced as to cause an even distribution of heat throughout the test structure. When fuel other than wood is used, modifications in the test oven above described may be made, subject to the approval of the Industrial Board.

The temperatures obtained shall be measured by means of standard pyrometers, under the direction of an experienced person. The type of pyrometer is immaterial so long as its accuracy is secured by proper standardization. The temperature should be measured at not less than two points when the main floor span is not more than 10 feet and one additional point when it exceeds 10 feet.

Readings at each point are to be taken every three minutes. The heat determination shall be made at points directly beneath the floor so as to secure a fair average.

At the end of the fire test a stream of water shall be directed against the underside of the floor, discharged through a 1½-inch nozzle, under 60 pounds nozzle pressure, for five minutes, the nozzle being held not more than 3 feet from the firing door during the application of the water. The hose stream shall be played backward and forward over the entire under surface of the floor under test. The top of the floor is then flooded at low pressure for

five minutes, after which the water is again applied to the underside at 60 pounds nozzle pressure for five minutes longer. The actual water pressure obtained must be accurately determined at the nozzle by means of nozzle stream Pitot tube with pressure gauge.

After the floor has sufficiently cooled the load on the same shall be increased to 600 pounds per square foot, uniformly distributed in segregated piles without arching.

Deflection readings shall be taken before starting the fire test, during the fire test, at maximum load and after release of load.

The test shall not be regarded as successful unless the following conditions are met. No fire or a considerable volume of smoke shall pass through the floor during the fire test; the floor must safely sustain the loads prescribed; the permanent deflection must not exceed one-eighth inch for each foot of span in either slab or beam.

In case the system satisfactorily withstands the tests prescribed in this article and approval is granted for its use in this State, the maximum span that could be used in practice must not exceed that of the arch as tested, and the live loads must not exceed 150 pounds per square foot. No increase of capacities or change in details of construction will be permitted because of shorter spans being used.

If the approval of greater live loads than 150 pounds per square foot for any construction or the approval of any material change in detail is desired, further tests will be required.

Whenever so directed by the Industrial Board, the owner or constructor at his own expense, shall cause to have made load and other tests to prove the quality of the workmanship and materials employed in the fireproof floor or roof installation in any building. The floor arches shall in all cases develop in thirty days after erection a strength equal to twice the live load they are designed to support without signs of failure. The loads shall consist of such material and shall be so placed as to form a uniformly distributed load on the entire area to be tested, without arching affect. Test loads shall remain in place at least twenty-four hours. All floor construction which shows signs of failure when tested, as herein described, shall be condemned by the Industrial Board and shall be replaced by the owner or contractor by approved floors.

All tests intended to comply with the above specifications shall be conducted by a competent, disinterested authority approved by the Industrial Board. Reports on all such tests, whether the construction is approved or disapproved, shall be placed on file in the Department of Labor. These reports shall state the facts and occurrences, and shall be accompanied with tables, diagrams, illustrations and a log of the test in sufficient detail to give an accurate description of the test specimen, a complete record of the skilled conduct of the test and the effect of the test upon the construction under observation. A list of the professional men in attendance shall accompany each report.

In all cases where the materials or devices are submitted to the Industrial Board by an applicant for approval of the same and are disapproved after test or examination by the Industrial Board, the applicant shall be entitled upon request, to a copy of the report of such test or examination.

TEST OF FIREPROOF PARTITION CONSTRUCTION

[See Rule 501]

Rule 509.—The test structure may be located at any place convenient to the applicant subject to the approval of the Industrial Board, where all the necessary facilities for properly conducting the test are provided.

The entire expense of the tests is to be sustained by the applicant.

The test structure shall be of such design that the construction to be tested shall form at least one side of the structure. The ends, roof, and foundations of the structure may be of materials and design that will withstand and confine the fire within the test structure for the required time.

At a height of not less than 2 feet 6 inches nor more than 3 feet above the ground level, a metal grate, properly supported, shall be provided, covering the whole inside area of the building.

In the walls below the grate level, draught openings shall be provided, as many as possible, furnishing openings with an aggregate of not less than 1 square foot for every 10 square feet of grate surface. Means for temporarily closing these openings shall be provided.

Immediately above the grate level, in one of the end walls of the structure, a firing door 3 feet 6 inches wide by 5 feet high must be provided.

Flues shall be supplied at each of the corners, and more often for a test structure with more than 250 square feet of grate surface, with sufficient opening to insure a proper draught. In no case shall a flue area be less than 180 square inches.

The size of the test structure will depend on the area of the partition construction to be tested. In no case shall the side wall construction in which the test partition is erected be less than 9 feet 6 inches high, nor less than 14 feet 6 inches long. This entire area must be above the level of the grate bars, and within such dimensions, must not be reinforced or braced in any manner other than is done as an inherent and essential part of the system of construction. The edges may be supported in any manner representing the conditions of support in good practice.

It is understood that the workmanship upon the partitions represents that obtaining in common practice and that the material is of a quality ordinarily used in that method of partition construction. If the proposed construction is approved the standard of workmanship and material is to be maintained in any and all work thereafter produced.

The length of time intervening between the construction of the test wall and the time of the test, in order to allow the material to dry out, may vary with the different makes, and generally will be at the discretion of the applicant, but should not exceed thirty days. Artificial drying may be resorted to.

The construction to be tested shall be subjected for three hours to the continuous heat of a fire, rising in temperature to 1700° F. by the end of the first half hour, and maintained at an average temperature of 1700° F. for the balance of the test; the fuel used being either wood, gas, oil, or other fuel, so introduced as to cause an even distribution of the heat throughout the test structure. When fuel other than wood is used, modifications in the test oven above described may be made subject to the approval of the Industrial Board.

The temperature obtained shall be measured by means of standard pyrometers under the direction of an experienced person. The type of pyrometer is immaterial so long as its accuracy is secured by proper standardization.

The temperature should be measured near the center of the test structure about 6 inches below the roof or ceiling, and also at the center of each partition under test about 7 feet above the grate level. In case the partition under test is more than 15 feet long, additional pyrometers shall be used, symmetrically disposed and not more than 12 feet apart. Temperature readings at each point shall be taken every three minutes, and the average used as the controlling temperature.

At the end of the fire test, a stream of water shall be directed against the construction under test, discharged through a 1½-inch nozzle, under 30 pounds nozzle pressure for two and one-half minutes, the nozzle being held within 2 feet of the firing door and the hose stream being played backward and forward over the entire fire side surface of the partition under test. The actual water pressure obtained shall be accurately determined at the nozzle by means of a nozzle stream Pitot tube with pressure gauge.

The test shall not be regarded as successful unless the following conditions are met: No fire or a considerable volume of smoke shall pass through the partition during the fire test; the partition must safely sustain the pressure of the hose stream; the approval of the construction under test may be withheld if the partitions should warp or bulge to an extent deemed dangerous by the Industrial Board.

It is suggested, although not obligatory, that a chamber be constructed on the unexposed side of the partition under test which will permit of easy access to the person or persons conducting the test, in order to obtain useful data upon radiated heat and facilitate observations upon the passage of fire or smoke.

All tests intended to comply with the above specifications shall be conducted by a competent, disinterested authority approved by the Industrial Board. Reports on all such tests, whether the construction is approved or disapproved, shall be placed on file in the Department of Labor. These reports should state the facts and occurrences, and shall be accompanied with tables, diagrams, illustrations and a log of the test in sufficient detail to give an accurate description of the test specimen, a complete record of the skilled conduct of the test and the effect of the test upon the construction under observation. A list of the professional men in attendance shall accompany each report.

In all cases where the materials or devices are submitted to the Industrial Board by an applicant for approval of the same and are disapproved after test or examination by the Industrial Board, the applicant shall be entitled, upon request, to a copy of the report of such test or examination.

TEST OF FIRE DOORS

[Subject to Rule 502]

Rule 510.—The test structure may be located at any place convenient to the applicant subject to the approval of the Industrial Board, where all the necessary facilities for properly conducting the test are provided.

The test structure shall be of such design that the door construction to be tested shall form the covering of an opening in at least one side wall of the structure. The doors shall be hung or otherwise erected as in practice. The ends, roof and foundations of the structure may be of materials and design that will safely withstand and confine the fire within the test structure for the required time.

The entire expense of the tests is to be sustained by the applicant.

At a height not less than 2 feet 6 inches nor more than 3 feet above the ground level, a metal grate, properly supported, shall be provided, covering the whole inside area of the building.

In the walls below the grate level, draught openings shall be provided, with an aggregate area of not less than one square foot for every ten square feet of grate surface. Means for temporarily closing these openings shall be provided.

Immediately above the grate level, in one of the end walls of the structure, a firing door 3 feet 6 inches by 5 feet high must be provided.

Flues should be supplied at each of the corners, and more often for a test structure with more than 250 square feet of grate surface, with sufficient opening to insure a proper draught. In no case shall a flue area be less than 180 square inches.

It is understood that the workmanship upon the doors and fittings represents that obtaining in common practice and that the material and fittings are of a quality ordinarily used in that method of door construction. If the proposed construction is approved the standard of workmanship, material and fittings is to be maintained in any and all work thereafter produced and constructed.

The size of the test structure will depend on the area of the door construction to be tested. In no case shall the side wall construction in which the test door is erected be less than 9 feet 6 inches high nor less than 14 feet 6 inches long. This entire area must be above the level of the grate bars.

Swinging or sliding doors which lap the edges of the wall shall be installed on the fire side of the wall. Doors which swing and close into rabbets shall open toward the fire. The size of door to be tested shall be not less than 5 feet by 7 feet for the ordinary type of sliding door and for swinging doors the size shall be not less than 3 feet by 7 feet.

The door construction to be tested shall be subjected for one hour to the continuous heat of a fire, rising in temperature to 1700° F. by the end of the first half hour, and maintained at an average temperature of 1700° F. for the balance of the test; the fuel used being either wood, gas, oil, or other fuel, so introduced as to cause an even distribution of the heat throughout the test structure. When fuel other than wood is used, modifications in the test oven above described may be made subject to the approval of the Industrial Board.

It is recommended that the test specimen be equipped with an automatic self-closing device or a fusible link attachment which will effect closure by the action of the temperature in the test structure.

The temperature obtained shall be measured by means of standard pyrometers under the direction of an experienced person. The type of pyrometer is immaterial so long as its accuracy is secured by proper standardization.

The temperature should be measured near the center of the test structure about 6 inches below the roof or ceiling and also at least two points in the wall in which the test door, or doors, are erected at a distance from an edge of the opening not greater than one foot and not less than 4 feet from the grate level. A temperature reading in the door or doors themselves is optional, as well as is the record of the heat conducted through the door or doors. Temperature readings at each point shall be taken every three minutes and the average used as the controlling temperature.

At the end of the fire test, a stream of water shall be directed against the construction under test, discharged through a $1\frac{1}{8}$ -inch nozzle, under 30 pounds nozzle pressure for two and one-half minutes, the nozzle being held within 2 feet of the firing door and the hose stream being played backward and forward over the entire fire side surface of the door or doors under test. The actual water pressure obtained shall be accurately determined at the nozzle by means of a nozzle stream Pitot tube with pressure gauge.

The test shall not be regarded as successful unless the following conditions are met: No fire or a considerable volume of smoke shall pass through the door or doors during the first test; the doors must safely sustain the pressure of the hose stream; the approval of the construction under test may be withheld if the door or doors should allow flames to pass about their edges or if they warp or bulge to an extent deemed to be dangerous by the Industrial Board.

It is suggested, although not obligatory, that a chamber be constructed on the unexposed side of the wall in which the door or doors are erected, which will permit of easy access to the person or persons conducting the test, in order to obtain useful data upon radiated heat and facilitate observations upon the passage of fire or smoke.

All tests intended to comply with the above specifications shall be conducted by a competent, disinterested authority approved by the Industrial Board. Reports on all such tests, whether the construction is approved or disapproved, shall be placed on file in the Department of Labor. These reports should state the facts and occurrences, and shall be accompanied with tables, diagrams, illustrations and a log of the test specimen, a complete record of the skilled conduct of the test and the effect of the test upon the construction under observation. A list of the professional men in attendance shall accompany each report.

In all cases where the materials or devices are submitted to the Industrial Board by an applicant for approval of the same and are disapproved after test or examination by the Industrial Board, the applicant shall be entitled, upon request, to a copy of the report of such test or examination.

TEST OF FIREPROOF WINDOWS

[See Rule 503]

Rule 511.—The test will comply in every detail to that required for the acceptance of a fireproof door, except that the window shall be subjected for three-quarters of an hour, instead of one hour, to the continuous heat of a fire, rising in temperature to 1600° F. by the end of the first half-hour and maintained at an average temperature of 1600° F. for the balance of the test. It is understood that the size of wall opening in which the test window is

installed represents that obtaining in common practice, and that the size of the frame and sash to be used, if the test is successful, will not be greater in any dimension than in the test window. Also with the following exceptions in regard to automatic closing:

It is recommended that the test specimen be equipped with an automatic self-closing device or a fusible link attachment which will effect closure by the action of the temperature in the test structure.

The test shall not be regarded as successful unless the following conditions are met:

No fire or a considerable volume of smoke shall pass through the window during the fire test; the window must safely sustain the pressure of the hose stream; the approval of the construction under test may be withheld if the window should allow flames to pass about its edges or if it warps or bulges to an extent deemed dangerous by the Industrial Board.

TEST OF FIRE-RESISTING PARTITIONS

[See Rules 504-506]

Rule 512.—The test will comply in every detail to that required for the acceptance of a fireproof partition except that the wall shall be subjected for one hour instead of three hours to the continuous heat of a fire rising in temperature to 1700° F. by the end of the first half hour and maintained at an average temperature of 1700° F. for the balance of the test.

The water application will be omitted.

TEST OF FIRE DOORS

[Subject to Rule 507]

Rule 513.—The test will comply in every detail to that required for the acceptance of a fire proof door except that the door or doors shall be subjected for one hour to the continuous heat of a fire, rising in temperature to 1700° F. by the end of the first half hour and maintained at an average temperature of 1700° F. for the balance of the test. The water application will be omitted.

EQUIPMENT, MAINTENANCE AND SANITATION OF FOUNDRIES AND EMPLOYMENT OF WOMEN IN CORE ROOMS

[Effective April 15, 1915]

IRON OR STEEL FOUNDRIES

DEFINITIONS

Rule 550.—An iron or steel foundry shall mean a place where iron or steel or both metals are melted and poured into sand molds in the making of castings, together with all cleaning, coremaking, drying, wash rooms and toilet rooms, used in connection therewith.

Rule 551.—The term "entrance," as used in these rules, shall mean main doorways opening directly to the outer air.

The term "gangway," as used in these rules, shall mean well-defined passages dividing the working floor of foundries but not the spaces between molds. Spaces between molds shall be divided into three classes, which shall be known as "bull-ladle aisles," "hand-ladle aisles" and "buggy-ladle aisles."

Rule 552.— Unless otherwise specified these rules shall, as to the subjects covered therein, exempt foundries from the provisions of rules relating to such subjects.

I. ENTRANCES AND WINDOWS

[Supplementary to Labor Law, § 97, subd. 2]

Rule 553.— Entrances to foundries shall be protected from November first to April first of each year by a covered vestibule, either stationary or movable, which shall be so constructed as to eliminate drafts and of such dimensions as to answer ordinary purposes, such as the passage of wheel-barrows, trucks and small industrial cars. This rule shall not apply to entrances used for railroad or industrial cars handled by locomotives or motors, or for traveling cranes, horse-drawn vehicles or automobiles; these entrances may remain open only for such time as is necessary for the ingress and egress of such cars, trucks and cranes, horse-drawn vehicles or automobiles.

No locomotive shall be permitted to remain inside the foundry during the loading or unloading of the cars.

II. GANGWAYS

[Supplementary to Labor Law, § 97, subd. 3]

Rule 554.— Main gangways where iron is carried by hand, bull or truck ladles shall be not less than five feet wide. Truck-ladle gangways which are not main gangways shall be not less than four feet wide. Bull-ladle aisles between floors shall be not less than three feet wide. Single hand-ladle or buggy-ladle aisles between floors shall be not less than eighteen inches wide. Where trolleys are used over molding floors for pouring metal, the aisles shall be of sufficient width to permit the safe ingress and egress of employees and the safe use of the ladles. Where it is necessary to occupy the central portion of the floor space in the production of moldings, continuous gangway space shall be provided.

Rule 555.— During the progress of casting every gangway or aisle shall be kept entirely free from pools of water or obstructions of any nature. Every gangway shall be kept in good condition at all times. Every gangway where industrial tracks are used shall be constructed of a hard material of substantial character and the top of the rail shall be flush with the floor.

III. REMOVAL OF SMOKE, STEAM, GASES AND DUST

[Supplementary to Labor Law, § 97, subd. 4]

Rule 556.— Where smoke, steam, gases or dust arising from any of the operations of the foundry are dangerous to health and where a natural circulation of air does not carry off such smoke, steam, gases or dust, there shall be installed and operated hoods, ventilators, fans or other mechanical means of ventilation approved by the Commissioner of Labor.

Rule 557.— Where fumes, gases and smoke are emitted from drying ovens in such quantities as to be detrimental to the health or comfort of employees, hoods and pipes or exhaust fans or other mechanical means shall be provided over the doors of such ovens; hoods and pipes will not be required where they would interfere with the operation of traveling cranes, but other effective means shall be provided for the removal of such smoke, gases and fumes.

Rule 558.—The cleaning and chipping of castings shall be done in cleaning rooms except that where traveling cranes or where, in existing installations cars are used for conveying castings into such rooms, a separating partition shall be erected which shall be not less than twelve (12) feet in height. In existing installations, where the crane cage or crane girders will not permit the erection of a twelve-foot partition, the height of the partition may be reduced sufficiently to permit of the clearance of same. Large castings may be chipped or cleaned by hand in the molding and casting room provided sufficient protection is furnished by the use of a curtain or screen or some other means equally good to protect employees who are otherwise employed therein.

This rule shall not apply if mechanical contrivances are used for cleaning castings and the dust and particles arising therefrom are effectively removed at the point of origin by means of an exhaust system.

Rule 559.—Where tumbler mills are used, exhaust systems shall be installed to effectively carry off the dust arising from the cleaning of castings, except where the mill is operated outside the foundry. This rule shall not prohibit the use of a water barrel to clean castings. Sand blast operations shall be carried on in the open air or in a separate room used solely for such purpose. The milling of cupola cinders, when done inside the foundry, shall be carried on by an exhaust mill or water mill, each of a type approved by the Commissioner of Labor.

Rule 560.—The floor beneath and immediately surrounding the cupola shall slope and drain away from the base of same.

Rule 561.—No cores shall be blown out of castings by compressed air unless such work is done outside the foundry or in a special room or dustproof enclosure approved by the Commissioner of Labor. Men employed in cleaning castings by compressed air or sand blast shall wear eye guards and helmets.

IV. LIGHTING AND HEATING

[Supplementary to Labor Law, § 97, subd. 5]

Rule 562.—Where natural light is insufficient properly to light the foundry, artificial light of sufficient power shall be provided, in the discretion of the Commissioner of Labor.

Rule 563.—Interior walls of foundries shall be whitened, in the discretion of the Commissioner of Labor.

Rule 564.—Proper and sufficient heat shall be provided and maintained in every foundry. Open fires may be used for the drying of molds or cores if coke containing less than one per cent of sulphur is used; also charcoal, gas or oils may be so used; where practicable, such drying of molds or cores shall be done at night.

[Supplementary to Labor Law, § 97, subd. 5]

Rule 565.—All hand and bull-ladles shall be dried in ovens or outside of the foundry. A sufficient number of sheet iron shields shall be available in iron foundries for use in covering hand and bull-ladles.

Rule 566.—Suitable facilities shall be provided for the thorough drying of employees' clothing. Such facilities may be located in the washroom, the locker room, or in a room used exclusively for such purpose.

V. SANITARY CONVENIENCES IN FOUNDRIES

[*Supplementary to Labor Law, § 97, subd. 6*]

WATER CLOSETS

Rule 567.—Water closets shall be provided in every foundry and for each sex, according to the following table:

Number of persons	Number of closets	Ratio
1 to 10.....	1	(1 for 10)
11 to 25.....	2	(1 for 12½)
26 to 50.....	3	(1 for 16⅔)
51 to 80.....	4	(1 for 20)
81 to 125.....	5	(1 for 25)

For every unit of forty-five or fractional part thereof in excess of one hundred twenty-five (125) persons employed, one additional water closet shall be provided.

VI. URINALS

Rule 568.—Where more than ten (10) and less than thirty (30) males are employed at one time there shall be provided one individual urinal; where more than thirty (30) and less than eighty (80) males are employed, two urinals shall be provided, and thereafter one individual urinal shall be provided for every eighty (80) men employed or fractional part thereof. At least two (2) linear feet of trough or slab urinal shall be considered the equivalent of one individual urinal.

VII. WASHING FACILITIES AND WASHROOMS

Rule 569.—Wash basins with faucets for hot and cold water shall be supplied according to the following table:

Number of persons	Number of wash basins	Ratio
1 to 8.....	1	(1 for 8)
9 to 16.....	2	(1 for 8)
17 to 30.....	3	(1 for 10)
31 to 45.....	4	(1 for 11¼)
46 to 65.....	5	(1 for 13)

For each additional twenty-five (25) employees at least one additional wash basin shall be supplied. Twenty (20) inches of sink shall be considered the equivalent of one wash basin.

Rule 570.—Washrooms hereafter installed where twenty (20) or more men are employed shall be provided with at least one shower bath with an ample supply of hot and cold water, and for every additional one hundred (100) men one additional shower bath shall be provided.

LOCKERS

Rule 571.—Individual lockers, arranged for locking, shall be provided for employees and shall be placed in a room used exclusively for such purpose, in the washroom, the drying room, or at convenient places in the molding room.

In cases of dispute the necessity for and the number of such lockers shall be determined by the Commissioner of Labor.

Rule 572.—The general provisions of the Industrial Code shall apply in all matters not specifically covered in Rules 563 and 567 to 570 inclusive.

VIII. MAINTENANCE

[Supplementary to Labor Law, § 97, subd. 7]

Rule 573.—Ladles, shanks, tongs, slings and yokes used in the pouring of molten metals shall, prior to their use, be inspected daily as to their safety, by the men preparing and using same, and in addition a regular inspection as to their safety shall be made once a month by a man designated for that purpose. A monthly inspection shall also be made of the chains and cables on counterweights used in connection with drying ovens. Reports of such inspections shall be made on forms prescribed by the Commissioner of Labor, and shall be kept on file for his examination.

Rule 574.—All fire ways connected with drying ovens, when built in the floor, shall at all times be protected by either a substantial protecting cover or a standard rail as defined in rules relating to dangerous machinery.

Rule 575.—All trap doors shall be guarded when open, either by standard rails as described in Rule 574 or watchmen, and all pits shall be properly covered or railed when not in use, and sufficiently guarded at other times.

Rule 576.—All passageways and stairways shall be properly lighted, and inclined runways and stairways, charging decks and platforms shall be safeguarded with standard rails as described in Rule 574.

Rule 577.—All pouring ladles of 2,000 pounds' capacity or more shall be equipped with a geared device for tilting same. All pouring ladles shall be so constructed that the center of gravity shall be below the bail, and shall be equipped with a clip to prevent overturning.

Rule 578.—Trunions on flasks shall be capable of sustaining the loads they are required to handle. Trunions hereafter constructed shall be carefully designed to carry the load they are to handle and constructed with a factor of safety of at least ten (10), including bolts where they are used. The diameter of the button shall be equal to the diameter of the groove plus one and one-half times the diameter of the sling used to handle the flask. Inside corners shall be well filleted and in order to prevent the sling slipping off or riding the button, the radius of the corner between groove and button shall be approximately equal to the radius of the sling used, the remainder of the inside edge of the button to be straight. All trunions constructed after April 15, 1915, shall bear the date of their construction.

Rule 579.—The use of high explosives on the foundry premises for the breaking of castings is prohibited unless effective protection is provided.

Rule 580.—The breaking of castings by the use of a drop inside the foundry during working hours is prohibited. Where a drop is used for the breaking of castings outside of the foundry a permanent shield of heavy planking or other effective protection shall be provided.

Rule 581.—Every employee shall use safety devices furnished for his protection by the employer, where there is a hazard connected with his employment.

IX. REGULATIONS FOR COREMAKING ROOMS IN WHICH WOMEN ARE EMPLOYED

[*Supplementary to Labor Law, § 93, subd. 4*]

Rule 582.—Where rooms in which core ovens are located adjoin rooms where cores are made by females and where the making of cores and the baking of cores are simultaneous operations, the partition between such rooms shall be constructed of concrete, hollow tile, brick, metal, or wood covered with metal, or other material approved by the Commissioner of Labor, and there shall be in such partition only such openings as are required by the nature of the business.

Rule 583.—All openings in partitions between the core oven room and the room in which females are employed shall be vestibuled with a revolving device or double doors which shall be self-closing, or any other self-closing device equally effective, which shall be approved by the Commissioner of Labor. Such device shall be kept in such condition that gases, fumes and smoke shall be effectually trapped.

Rule 584.—No female shall be allowed to handle cores which have a temperature of more than one hundred and ten (110) degrees Fahrenheit.

Rule 585.—No female shall be permitted to make or handle cores when the combined weight of core, core box and plate at which she is working exceeds twenty-five (25) pounds.

BRASS FOUNDRIES

Rule 586.—*Definitions.* A brass foundry shall mean a place where brass, aluminum, copper, tin, zinc, gold, silver, or composition metals containing any of the foregoing metals are melted or poured into sand molds in the making of castings, except that foundries where aluminum only is melted shall be covered by rules governing iron and steel foundries.

The term cellar when used in these rules shall mean a room or part of a building which is one-half or more of its height below the level of the curb on the ground adjoining the building (excluding area-ways).

The term basement when used in these rules shall mean a room or part of a building which is one-half or more of its height above the level of the curb.

Rule 587.—The rules relative to dust, smoke, gases or fumes, ventilation, sanitation, heat, light, gangways and aisles, safety appliances, washrooms, cleaning rooms, drying and locker accommodations, as specified for iron and steel foundries, shall apply to brass foundries, except that main gangways shall be not less than four (4) feet wide and gangways between molds on spill troughs shall be not less than three (3) feet wide.

Rule 588.—When the crown plate of an upright melting surface is elevated above the surrounding floor in excess of twelve (12) inches, the furnace shall be equipped with a platform with a standard rail; such platform shall be constructed of metal or other fireproof material, and shall extend along the front and sides of the furnace, flush with the crown plate and shall be at least four (4) feet in width and shall be clear of all obstructions during pouring time. If the platform is elevated above the floor in excess of twelve (12) inches the lowering from same of crucibles containing molten metal shall be by mechanical means.

Rule 589.— When the combined weight of a crucible, tongs and molten metal exceeds one hundred (100) pounds, it shall be removed from the furnace and deposited on the floor by mechanical means.

Rule 590.— When smoke finish is desired on molds made on benches or tubs, smoke boxes which shall effectually trap the smoke shall be used; such boxes to be connected with flues to the outer air.

Rule 591.— When molders work side by side at least five (5) feet of space sideways shall be allowed for each man, and a clear space of three (3) feet shall be provided back of each man.

Rule 592.— Hoods shall be provided directly above all brass melting furnaces using gas or oil as fuel, which will effectually trap all gases and fumes generated in the melting of the metal; such hoods shall be provided with outlet pipes to lead the gases or fumes to outer air.

Ventilators shall be provided over all other furnaces used for melting brass or composition metal, to effectually remove the gases above the furnaces.

Rule 593.— Brass foundries shall be provided with natural light from at least two sides or from at least one side, and skylights in roof.

Rule 594.— All persons removing pots containing molten metal from furnaces or handling such pots shall be provided with protection for legs and feet.

Rule 595.— Gangway dirt and floor scrapings shall not be riddled in the room where workmen are employed, unless it is so dampened as to prevent dust arising therefrom.

Rule 596.— Stoves used for drying molds, when located in the rooms used by workmen, shall be surrounded by a casing of fireproof material, to the full height of the stove.

Rule 597.— No brass foundry shall hereafter be constructed with a clearance less than fourteen (14) feet between the lowest point of the ceiling and the floor, except that where a peak, saw-tooth, monitor or arch roof is constructed the side walls may be of a minimum height of twelve (12) feet.

FOUNDRIES IN GENERAL

FUTURE CELLAR FOUNDRIES

Rule 598.— No foundry shall hereafter be located in a cellar or basement unless the ceiling shall be at least fourteen (14) feet in height, measured from the finished floor to the under side of the ceiling; and, if the foundry is located or intended to be located entirely in the front part of the building, unless the ceiling shall be in every part at least six (6) feet six (6) inches above the curb level of the street in front of the building; or, if the foundry is located or intended to be located entirely in the rear part of the building, or to extend from the front to the rear, unless the ceiling shall be not less than three (3) feet above the curb level of the street in front of the building, and the foundry shall open upon a yard or court which shall extend at least six (6) inches below its floor level; nor unless proper and adequate provision shall be made for lighting and ventilation.

EXISTING CELLAR FOUNDRIES

Rule 599.—In case any foundry that was legally operated in a cellar or basement on January 1, 1915, shall be discontinued or unused for a period of more than four (4) consecutive months, it can thereafter be reopened as a foundry only by complying with the provisions of the rules relating to future foundries. The occasional operation of a foundry for the purposes of evading this rule shall not be deemed a continuance of use thereof.

MILLING INDUSTRY AND MALT HOUSE ELEVATORS

[Under authority of Labor Law, § 20-b, effective April 15, 1915]

Rule 650.—Application. These rules shall apply to all establishments commonly known as flour, feed, and cereal mills, and to malt house elevators where such elevators are specifically referred to.

Rule 651.—New construction. In mill buildings proper, where beams are part of a truss, the open space or room shall be ceiled below the truss. Where steel "I" beams are used, they shall be entirely enclosed so as to prevent the collection of dust. If beams support floor joists, the space between the joists on top of the beam and below the floor shall be blocked in solid with wood or other material, according to the construction. The entire construction shall be of such a character as to eliminate horizontal ledges on walls or ceilings.

Rule 652.—In existing mills, all interior openings from boiler rooms and engine rooms shall be provided on either side of the wall with approved automatic self-closing fire doors. When the boiler room or engine room is situated in the basement or cellar, the walls and ceilings shall be fire proof and shall have no openings to the mill proper except for the transmission of power, light, heat and water. In new mills, the boiler room shall connect only with the engine room and the engine room shall be separated from the mill proper by an unpierced fire wall parapeted three (3) feet, having no openings except those necessary for the transmission of power, light, heat and water.

Rule 653.—In plants hereafter erected, heating and grain tempering shall be only by steam, indirect hot air, or hot water, generated at a point separated from the milling rooms proper, so that no open flames shall come in contact with the air of the mill.

In existing plants, where heating furnaces of any description, including tempering furnaces and stoves, are located within the mill proper, the points at which fuel is charged and ashes removed shall be closed off from the air of the mill by a fireproof enclosure, vented to the outside air, the entrance to which enclosure shall be kept closed, except for ingress and egress, and notice to that effect shall be posted on the door. No unprotected flues, from such apparatus, shall be allowed to pass through the mill proper.

Rule 654.—Electric generator sets shall be either in engine rooms or in a room similarly cut off, as provided in Rule 652. In future installations direct current motors unless located in the engine room shall be of the enclosed type. Existing installations of direct current motors or generators outside the engine room of mills shall be in a dust-proof enclosure properly ventilated to the outer air.

Rule 655.—Illumination in all mills and in all elevators that form parts of mills shall be by approved electric lighting, except that in existing mills located in a town or village where there is no electric light service, a system of lighting shall be installed which shall meet the approval of the Industrial Board. The use of safety lamps approved by the Industrial Board will be permitted.

Rule 656.—All belt conveyors for receiving grain shall be provided at the points of charge and discharge with a hood connected with an exhaust fan of sufficient capacity to remove or prevent the escape of all dust arising from the conveyor and such fan shall be kept in operation when the conveyor is in use; this rule shall not apply to the point at which a railroad car hopper discharges on to a belt conveyor.

Rule 657.—Tops of grain garnerers over scales shall be covered with wood, metal, or other impervious material, said covers to be tight fitting to prevent entirely the escape of dust. This rule also applies to malt house elevators.

Rule 658.—Until grain is thoroughly cleaned, hoppers for weighing shall be provided with tight fitting covers of wood, metal or other material impervious to dust and with flexible dust-proof connections to the bottom of the garner, if there is a garner. This rule shall apply only to weighing hoppers located indoors. This rule also applies to malt house elevators.

Rule 659.—Before grain is ground or passes to grinding machines, foreign substances shall be removed by separators, or proper sieves and magnets.

Rule 660.—Dust rooms or "stive" rooms are prohibited. A fan discharging dust shall discharge either to the outer air at such points where the dust shall not re-enter the mill or adjacent buildings, or to a dust collector, and the air vent or outlet of every cyclone dust collector shall discharge to the outer air or to another dust collector. All tubular dust collectors shall be maintained in a proper state of repair so as to prevent leakage of dust into the room. A fan which discharges into any dust collector shall be kept in operation at all times while the machine or machines with which it is connected are in operation. There shall be no direct connection between dust collectors and boiler rooms or incinerators. This rule also applies to malt house elevators.

Rule 661.—The piping of all exhaust systems and all ducts shall be kept tight. This rule also applies to malt house elevators.

Rule 662.—Mills and all buildings, structures and elevators, used in connection therewith shall be kept thoroughly clean and free from dust. Dust shall be removed from floors and machinery daily, and all other parts of the mill, including fixtures, bearings, ledges, projections, side walls and ceilings, and all buildings, structures and elevators shall be cleaned and dust removed at least once a week. In every mill where more than ten (10) persons are employed at least one (1) person shall be employed whose sole duty it shall be to attend to cleaning. In cleaning, such methods shall be used as will prevent the suspension of dust in the air. This rule also applies to malt house elevators.

Rule 663.—No person in a mill shall carry or have upon his person matches, cigar lighters or contrivances or devices for lighting. Every mill shall be provided, at its entrance, with two (2) covered fireproof receptacles, one (1) for matches and the other for lighted cigars, cigarettes or pipe contents.

Each of such receptacles shall be plainly labeled to show the purpose for which it is provided. No person shall enter such mill without first depositing in the receptacle provided any and all such matter. Notice to the effect that the carrying of matches is prohibited shall be posted in conjunction with the notice prescribed in section 83-c of the Labor Law, paragraph 3. This rule also applies to malt house elevators.

Rule 664.—Approved two and one-half ($2\frac{1}{2}$) gallon chemical extinguishers shall be distributed throughout the building in the proportion of not less than one (1) to each two thousand five hundred (2,500) square feet of floor area; extinguishers to be placed at readily accessible points and preferably near the usual working place of workmen. Three (3) pails and a fifty (50) gallon cask of water may be considered the equivalent of one (1) two and one-half ($2\frac{1}{2}$) gallon extinguisher.

Near each electric motor or other large electric appliance, at least one (1) 1-quart chemical extinguisher of carbon tetrachloride type must be provided.

This rule also applies to malt house elevators, but shall not apply to buildings equipped with approved sprinkler system.

REMOVAL OF DUST, GASES AND FUMES FROM FACTORIES

[Adopted May 5, 1915; effective May 15, 1915]

A. PROPOSED RULES FOR GRINDING, POLISHING AND BUFFING WHEELS

[Supplementary to Labor Law, § 81, subd. 2]

I. HOODS

Rule 700.—Every grinding, polishing and buffing wheel, except such wheels as are used in the manufacture of articles of gold and platinum, shall be provided with a hood connected by means of a pipe to an exhaust fan or other suction device, in such manner as to carry away the dust and refuse thrown off by such wheel to some receptacle so placed as to receive and confine the dust. Every such hood shall be made of metal or other suitable material and be of such form and so located in relation to the grinding surface of the wheel that the dust and refuse therefrom will fall into or be drawn into the hood and be carried off by the pipe attached to it. An emery wheel which is used occasionally by workmen for grinding tools used in the shop shall not be required to be so equipped, provided it has a hood, casing or other device to prevent particles from being thrown upon the operator. Every grinding wheel upon which water is used at the point of grinding contact shall be similarly guarded, but connection with an exhaust shall not be required unless dust is thrown off from such wheel.

Every hood shall be so constructed as to expose the smallest portion of the wheel consistent with efficient operation, and its free edges shall be turned back or faced to prevent injury to the hands of workmen. Where there is likelihood that the hood may scratch the work, the edges of the hood should be covered with leather or other suitable covering.

The Commissioner may modify the requirements of this rule for machines of special types for which it proves impracticable to provide hoods.

II. SIZE OF BRANCH PIPES

Rule 701.— The minimum sizes of branch pipes for different sized emery or other grinding wheels shall be as follows throughout their entire length:

DIAMETER OF WHEELS	Maximum grinding surface, square inches	Minimum diameter of branch pipe in inches
6" or less, not over 1" thick.....	19	3
7" to 9" inclusive, not over 1½" thick.....	43	3½
10" to 16" inclusive, not over 2" thick.....	101	4
17" to 19" inclusive, not over 3" thick.....	180	4½
20" to 24" inclusive, not over 4" thick.....	302	5
25" to 30" inclusive, not over 5" thick.....	472	6

If a wheel is thicker than given in the above table, or if a disc is used, it shall have a branch pipe not smaller than is called for by its grinding surface as above specified.

Rule 702.— The minimum sizes of branch pipes for different sized buffing or polishing wheels shall be as follows throughout their entire length:

DIAMETER OF WHEELS.	Maximum polishing surface, square inches	Minimum diameter of branch pipe in inches
6" or less, not over 1" thick.....	19	3½
7" to 12" inclusive, not over 2" thick.....	75	4
13" to 16" inclusive, not over 3" thick.....	151	4½
17" to 20" inclusive, not over 4" thick.....	251	5
21" to 24" inclusive, not over 5" thick.....	377	5½
25" to 30" inclusive, not over 6" thick.....	565	6½

If a wheel is thicker than given in the above table, it shall have a branch pipe not smaller than is called for by its polishing surface as above specified.

In old installations, however, the Commissioner may approve modifications of Rules 701 and 702, provided that the static suction as required in Rule 704 is maintained and the dust and particles are effectively removed.

Buffing wheels six (6) inches or less in diameter used for jewelry work may have a three (3) inch branch pipe.

III. SIZE OF MAIN PIPES AND FAN INLETS AND OUTLETS

Rule 703.— The area of the main suction pipe at any point shall be not less than the combined areas of the branch pipes entering it between such point and the tail end of the system, and the increase shall be carried proportionately throughout the entire length of the main pipe, except that in systems installed previous to the adoption of these rules, the Commissioner may approve a main suction pipe smaller than the combined areas of such branch pipes and without proportionate increase, provided that static suction as

required in Rule 704 is maintained, and that dust does not settle in the main. The inlet and outlet of the fan or casing and the discharge pipe throughout its entire length shall be at least equal to the main pipe at the fan inlet.

The main suction pipe should preferably receive only one (1) branch in a section of uniform area, whenever space permits, and in no case should it receive more than two (2) branches in such a section.

It is recommended that the main suction pipe should be twenty per cent (20%) greater than the combined areas of the branch pipes.

IV. SUCTION

Rule 704.—Sufficient static suction shall be maintained in every branch pipe within one (1) foot of the hood to produce a difference of level of at least two (2) inches of water between the two (2) sides of a U-shaped tube. Test shall be made by placing one end of a rubber tube over a small hole made in pipe, the other end of tube being connected to one side of U-shaped water-gauge. Such test shall be made with all branch pipes open and unobstructed.

V. ARRANGEMENT AND CONSTRUCTION OF PIPES

Rule 705.—Every branch pipe shall enter the main pipe at top or side and at an angle not exceeding forty-five (45) degrees; it shall incline in the direction of the air flow at junction with the main. Branch pipes shall not project into the main.

Every branch pipe shall lead out of the hood as nearly as possible at the point where the dust will naturally be thrown into it by the wheel. In the case of undershot wheels (i. e., when the top of the wheel runs toward the operator), the main suction pipe should be back of and below the wheels, and as close to them as practicable.

The main suction and discharge pipes shall be made as short and with as few bends as possible. They should be not less than six (6) inches above the floor at every point, or at least six (6) inches below any ceiling they may run under.

Rule 706.—Every lap in piping shall be made in the direction of the air flow and every enlargement in the size of pipe shall be made on a taper and not by an abrupt change.

Every bend, turn or elbow shall be made with a radius in the throat at least equal to one and one-half ($1\frac{1}{2}$) times the diameter of the pipe on which it is connected.

It is recommended, however, that every such bend, turn or elbow should be made with a radius in the throat of twice the diameter of the pipe on which it is connected, wherever space permits.

In future installations the main suction pipe shall be blanked off with removable cap.

Rule 707.—In future installations all pipes shall be constructed of not less than the following gauge metal:

Size of pipe.	Gauge of metal
8" or less in greatest dimension.....	24
9"-20" in greatest dimension.....	22
21"-30" in greatest dimension.....	20
30" and upwards.....	18

All elbows should be made of metal two (2) gauges heavier than the pipe on which they are connected.

Flanges and hoods for the protection of grinding wheels shall be constructed according to the rules for dangerous machinery.

Rule 708.—In a tenant factory the owner shall install or permit the tenant to install the main and branch pipes as required by these rules between the floor occupied by the tenant and the roof and ground floor of such building.

VI. CLEAN-OUT DOORS

Rule 709.—Every main pipe, both suction and discharge, shall be provided with clean-out doors so spaced as to allow the pipe to be thoroughly cleaned.

VII. DAMPERS AND FIRE DOORS

Rule 710.—Branch pipes may be equipped with shut-off dampers which may be closed when the wheel is not in use. Every such damper shall be of the sliding type and shall be kept open whenever the wheel is in operation. The stove pipe or butterfly type of damper will not be permitted for branch pipes.

Rule 711.—Every pipe shall be kept open and unobstructed throughout its length, and no fixed screen may be placed in it. The use of a trap at the junction of the hood and branch pipe is recommended, provided it is not allowed to fill up with dust.

Rule 712.—Pipes shall be provided with fire doors as required by the rules on fire protection.

Rule 713.—Every exhaust system shall at all times be kept in good repair and clean condition, and operated in conformity with these rules while the machinery for which it is provided is in use.

VIII. VENTILATION

Rule 714.—No air outlet from a dust collector shall discharge into any workroom, except when an approved separator is used which effectually removes all dust from the air. No permanent inlets for air shall be allowed in any workroom which will subject the employees to any draft or local current of air more than ten (10) degrees below the general temperature of the room.

IX. BELTS

Rule 715.—Every belt or strap used for grinding, polishing or buffing shall be equipped, as far as practicable, with an exhaust system so designed and attached that it will carry off the dust at its point of origin.

X. PLANS

Rule 716.—Duplicate plans or drawings made in ink to scale, or prints of such scale drawings, and specifications, showing location and size of all hoods, main and branch pipes, fans and dust separators, and wheels, and the kind of work for which they are to be used, may be filed by the owner or contractor with the Commissioner for examination and approval, as to design, whenever an exhaust system is to be installed, extended or altered. The employer or contractor, upon completion of any installation, shall notify the Commissioner and the test specified in Rule 704 shall be obtained by him before the system is approved.

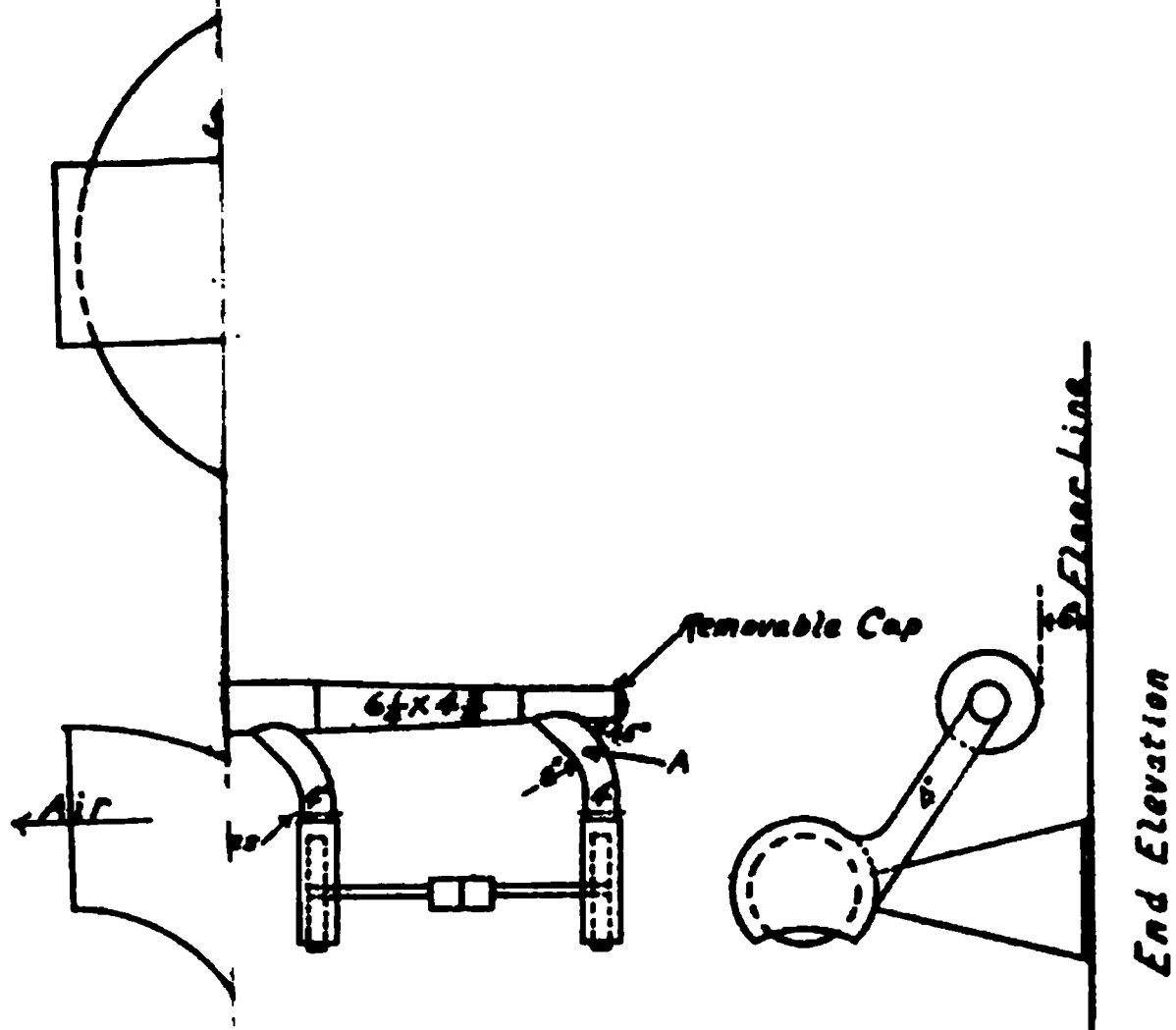
To give a sample illustration, the appended drawing shows an exhaust system laid out in conformity with these specifications for eight 14-inch emery wheels. For eight 14-inch buffing wheels, the branch pipes would have to be not less than 4½ inches in diameter, and the increased size of the main suction duct and the fan determined in accordance with Rule 703. The main discharge pipe and the cyclone separator should be considerably larger for buffing wheels than for emery wheels.

NOTE: The reference and dimension letters on the drawing are merely for the convenience of our inspectors in reporting on exhaust systems.

DUST SEPARATORS

Diameter of fan outlet in inches	Area of fan outlet in square inches	OPENINGS IN SEPARATOR					DIMENSIONS OF SEPARATOR			Shipping weight, lbs.
		Size of inlet in inches	Area of inlet in square in.	Diameter of air outlet in inches	Area of air outlet in square in.	Diameter of dust outlet in inches	Outside diameter of cylinder in inches	Height of cylinder in in.	Length of cone in in.	
5.....	20	2½ x 9	23	8½	56	3	29½	14	26½	70
6.....	28	3 x 10½	32	10	78	4	35½	15½	32½	100
7.....	38	3½ x 13	47	13	132	6	41½	18½	37½	140
or 8.....	50									
9.....	63	4½ x 16	72	15	176	6	47½	21	43½	175
10.....	78	5 x 18	90	17	227	6	53½	23	50	245
11.....	95	5½ x 21	115	20	314	10	59½	26	56	315
or 12.....	113									
13.....	133	6½ x 24	156	23½	433	10	65½	29	61½	395
or 14.....	154									
15.....	177	7 x 27	189	26	531	10	71½	32	67½	490
16.....	201	8 x 30	240	28	615	10	77½	35	72½	575
or 17.....	227									
18.....	254	8½ x 32	272	31	754	10	83½	38	77½	715
19.....	283	9 x 35	315	33	855	10	89½	41	82½	875
or 20.....	314									
21.....	346	9 x 40	360	36	1,017	10	93½	46	85½	930
22.....	380	10 x 41	410	39	1,194	10	97½	47	89	1,000
23.....	415	10½ x 43	451	41	1,320	11	101½	49	93	1,095
or 24.....	452									
25.....	491	11 x 45	495	44	1,520	11	105½	51	97	1,455
26.....	531	11 x 48	528	46	1,662	12	109½	54	99½	1,600
27.....	572	11 x 51	561	49	1,885	12	113½	57	103½	1,700
28.....	621	11½ x 54	621	52	2,123	12	117½	60	109½	1,855
29.....	660	12 x 57	684	55	2,375	12	121½	63	111½	2,035
30.....	707	12 x 60	720	58	2,642	12	125½	66	115½	2,155
31.....	754	12½ x 63	807	61	2,922	13	129½	69	118½	2,250
or 32.....	804									
33.....	855	13 x 66	858	64	3,217	13	133½	72	122½	2,420
34.....	908	13½ x 69	932	67	3,525	13	137½	75	126½	2,555
35.....	962	14 x 72	1,008	70	3,848	14	141½	78	129½	2,745
36.....	1,017	14½ x 75	1,087	73	4,185	14	145½	81	133½	2,900
or 37.....	1,075									
38.....	1,134	15 x 78	1,170	76	4,536	14	149½	84	137½	3,065
39.....	1,194	15½ x 81	1,255	79	4,901	14	153½	87	141½	3,235
or 40.....	1,256									
41.....	1,320	16 x 84	1,344	82	5,281	14	157½	90	145½	3,395

NOTE: It should be distinctly understood that the above table is reproduced merely for the convenience of any who may wish to refer to it and that the Department of Labor assumes no responsibility whatever for the proper working of any separator selected or proportioned in accordance therewith.



NEW YORK STATE
INDUSTRIAL COMMISSION
DEPARTMENT OF LABOR
BUREAU OF INSPECTION
DIVISION OF ENGINEERING

The following table, referred to on page 2, gives the diameter in inches of the main suction duct at any point for any number of uniform-size branch pipes when the area of the main at any point is made equal to the combined areas of the branch pipes preceding that point plus twenty per cent (20%)—the minimum required by these specifications:

Number of branch pipes	Diameter of branch pipes in inches								
	3	3½	4	4½	5	5½	6	6½	7
	Area of each branch pipe in square inches								
	7.07	9.62	12.566	15.9	19.635	23.758	28.274	33.183	38.485
	Area of each branch pipe plus 20 per cent (square inches)								
	8.484	11.544	15.08	19.08	23.562	28.51	33.93	39.82	46.182
1.....	3½	3½	4½	5	5½	6	6½	7½	7½
2.....	4½	5	6	7	7½	8	9	10	10
3.....	5	6	7	8	9	10	11	12	13
4.....	6	7	8	9	11	12	13	14	15
5.....	7	8	9	11	12	13	14	16	17
6.....	8	9	10	12	13	14	16	17	18
7.....	8	10	11	13	14	16	17	18	20
8.....	9	10	12	14	15	17	18	20	21
9.....	9	11	13	14	16	18	19	21	23
10.....	10	12	13	15	17	19	20	22	24
11.....	11	12	14	16	18	20	21	23	25
12.....	11	13	15	17	19	20	22	24	26
13.....	11	13	15	17	19	21	23	25	27
14.....	12	14	16	18	20	22	24	26	28
15.....	12	14	17	19	21	23	25	27	29
16.....	13	15	17	19	22	24	26	28	30
17.....	13	15	18	20	22	24	27	29	31
18.....	14	16	18	21	23	25	27	30	32
19.....	14	16	19	21	23	26	28	31	33
20.....	14	17	19	22	24	27	29	31	34
21.....	15	17	20	22	25	27	30	32	35
22.....	15	18	20	23	25	28	30	33	36
23.....	15	18	21	23	26	29	31	34	36
24.....	16	18	21	24	26	29	32	34	37
25.....	16	19	22	24	27	30	32	35	38
26.....	16	19	22	25	28	30	33	36	39
27.....	17	20	22	25	28½	31	34	37	39
28.....	17	20½	23	26	29	32	34	37½	40
29.....	17½	20	23	26	29½	32½	35	38	41
30.....	18	21	24	27	30	33	36	39	42

PENALTIES FOR VIOLATION OF THE LABOR LAW OR INDUSTRIAL CODE

THE PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 444. * Manufacture and sale of mattresses.—Any person who 1. Manufactures, sells, offers for sale or possesses with intent to sell any mattress not properly branded or labeled, as required by the general business law, or

2. Manufactures, sells, offers for sale or possesses with intent to sell any mattress which is falsely branded or labeled, or

3. Uses in the manufacture of mattresses any cotton or other material which has been used as a mattress, pillow or bedding in any public or private hospital, or which has been used by any person having an infectious or contagious disease, shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months or by both. [*Section 444 added by L. 1913, ch. 503.*]

Compare General Business Law provisions, relative to mattresses, etc., p. 80, *ante*.

§ 620. Unlawful dealing in convict made goods.—A person who:

1. Sells or exposes for sale convict made goods, wares or merchandise, without a license therefor, or having such license does not transmit to the secretary of state the statement required by article thirteen of the labor law; or,

2. Sells, offers for sale, or has in his possession for sale any such convict made goods, wares or merchandise without the brand, mark or label required by article thirteen of the labor law; or,

3. Removes or defaces or in any way alters such brand, mark or label, is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not more than one thousand or less than one hundred dollars, or by imprisonment for not less than ten days or by both such fine and imprisonment.

Compare notes under §§ 190 and 193 of the Labor Law, pp. 126, 127, *ante*.

ARTICLE 120

Labor

Section 1270. Refusal to admit inspector to mines, tunnels, and quarries; failure to comply with requirements of inspector.

1271. Hours of labor to be required.

1272. Payment of wages.

1274. No fees to be charged for services rendered by free public employment bureaus.

1275. Violations of provisions of labor law; the industrial code; the rules and regulations of the industrial board of the department of labor; orders of the commissioner of labor.

1276. Negligently furnishing insecure scaffolding.

1277. Neglect to complete or plank floors of buildings constructed in cities.

1278. Fraudulent representation in labor organizations.

§ 1270. Refusal to admit inspector to mines, tunnels, and quarries; failure to comply with requirements of inspector.—A person:

1. Refusing to admit the commissioner of labor, or any person authorized

* Another section, also numbered 444, relating to stock exchanges was added by L. 1918, ch. 477.

by him, to a mine, tunnel or quarry, and to each and every part thereof, for the purpose of examination and inspection; or,

2. Neglecting or refusing to comply with the provisions of article nine of the labor law upon written notice of the commissioner of labor,

Is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine of not less than fifty dollars, or by imprisonment for not less than thirty days.

§ 1271. Hours of labor to be required.— Any person or corporation:

1. Who, contracting with the state or municipal corporation, shall require more than eight hours' work for a day's labor; or,

2. Who shall require more than ten hours' labor, including one-half hour for dinner, to be performed within twelve consecutive hours, by the employees of a street surface and elevated railway owned or operated by corporations whose main line of travel or routes lie principally within the corporate limits of cities of more than one hundred thousand inhabitants; or,

3. Who shall require the employees of a corporation owning or operating a brick yard to work contrary to the requirements of section five of the labor law; or,

4. Who shall require or permit any employee engaged in or connected with the movement of any train of a corporation operating a line of railroad of thirty miles in length, or over, in whole or in part within this state, to remain on duty more than sixteen consecutive hours; or to require or permit any such employee who has been on duty sixteen consecutive hours to go on duty without having had at least ten hours off duty; or to require or permit any such employee who has been on duty sixteen hours in the aggregate in any twenty-four hour period, to continue on duty or to go on duty without having had at least eight hours off duty within such twenty-four hour period; except when by casualty occurring after such employee has started on his trip, or by unknown casualty occurring before he started on his trip, and except when by accident or unexpected delay of trains scheduled to make connection with the train on which such employee is serving, he is prevented from reaching his terminal;

Is guilty of a misdemeanor, and on conviction therefor shall be punished by a fine of not less than five hundred nor more than one thousand dollars for each offense.

If any contractor with the state or a municipal corporation shall require more than eight hours for a day's labor, upon conviction therefor in addition to such fine, the contract shall be forfeited at the option of the municipal corporation.

Compare §§ 3 to 8-a of the Labor Law, pp. 11-17, *ante*.

§ 1272. Payment of wages.— A corporation or joint stock association or person carrying on the business thereof, by lease or otherwise, who does not pay the wages of all its employees in accordance with the provisions of the labor law, is guilty of a misdemeanor, and upon conviction therefor, shall be fined not less than one hundred nor more than ten thousand dollars for each offense. An indictment of a person or corporation operating a steam surface railroad for an offense specified in this section may be found and tried in any county within the state in which such railroad ran at the time of such offense. [*As am'd by L. 1909, ch. 205.*]

Compare §§ 9 to 12 of the Labor Law, pp. 17, 18, *ante*.

§ 1274. No fees to be charged for services rendered by free public employment bureaus.— A person connected with or employed in a free public employment bureau, who shall charge or receive directly or indirectly, any fee or compensation from any person applying to such bureau for help or employment, is guilty of a misdemeanor.

§ 1275. Violations of provisions of labor law; the industrial code; the rules and regulations of the industrial board of the department of labor; orders of the commissioner of labor.— Any person who violates or does not comply with any provision of the labor law, any provision of the industrial code, any rule or regulation of the industrial board of the department of labor, or any lawful order of the commissioner of labor; and any person who knowingly makes a false statement in or in relation to any application made for an employment certificate as to any matter required by articles six and eleven* of the labor law to appear in any affidavit, record, transcript or certificate therein provided for, is guilty of a misdemeanor and upon conviction shall be punished, except as in this chapter otherwise provided, for a first offense by a fine of not less than twenty nor more than fifty dollars; for a second offense by a fine of not less than fifty nor more than two hundred and fifty dollars, or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a third offense by a fine of not less than two hundred and fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment. [*As am'd by L. 1911, ch. 749; L. 1912, ch. 383; and L. 1913, ch. 349.*]

§ 1276. Negligently furnishing insecure scaffolding.— A person or corporation employing or directing another to do or perform any labor in the erection, repairing, altering or painting, any house, building or structure within this state, who knowingly or negligently furnishes or erects or causes to be furnished or erected for the performance of such labor, unsafe, unsuitable or improper scaffolding, hoists, stays, ladders or other mechanical contrivances; or who hinders or obstructs any officer detailed to inspect the same, destroys or defaces any notice posted thereon, or permits the use thereof after the same has been declared unsafe by such officer contrary to the provisions of article two of the labor law, is guilty of a misdemeanor.

Compare §§ 18 and 19 of the Labor Law, pp. 20, 21, *ante*.

§ 1277. Neglect to complete or plank floors of buildings constructed in cities.— A person, constructing a building in a city, as owner or contractor, who violates the provisions of article two of the labor law, relating to the completing or laying of floors, or the planking of such floors or tiers of beams as the work of construction progresses, is guilty of a misdemeanor, and upon conviction therefor shall be punished by a fine for each offense of not less than twenty-five nor more than two hundred dollars.

Compare § 20 of the Labor Law, p. 22, *ante*.

* Article eleven here referred to was renumbered article twelve by chapter 145 of the laws of 1913.

WORKMEN'S COMPENSATION LAW

[Chapter 816 of the Laws of 1913, as re-enacted and amended by chapter 41 of the Laws of 1914, constituting chapter 67 of the Consolidated Laws, as amended.]

- Article 1. Short title, application, definitions (§§ 1-3).
2. Compensation (§§ 10-34).
3. Security for compensation (§§ 50-54).
4. State workmen's compensation commission (§§ 60-76).
5. State insurance fund (§§ 90-105).
6. Miscellaneous provisions (§§ 110-119).
7. Laws repealed; when to take effect (§§ 130-131).

ARTICLE 1

SHORT TITLE; APPLICATION; DEFINITIONS

- Section 1. Short title.
2. Application.
3. Definitions.

Section 1. Short title.—This chapter shall be known as the "workmen's compensation law."

§.2. Application.—Compensation provided for in this chapter shall be payable for injuries sustained or death incurred by employees engaged in the following hazardous employments:*

Group 1. The operation, including construction and repair, of railways operated by steam, electric or other motive power, street railways, and incline railways, but not their construction when constructed by any person other than the company which owns or operates the railway, including work of express, sleeping, parlor and dining car employees on railway trains.

Group 2. Construction and operation of railways not included in group one.

Group 3. The operation, including construction and repair, of car shops, machine shops, steam and power plants, and other works for the purposes of any such railway, or used or to be used in connection with it when operated, constructed or repaired by the company which owns or operates the railway.

Group 4. The operation, including construction and repair of car shops, machine shops, steam and power plants, not included in group three.

Group 5. The operation, including construction and repair, of telephone lines and wires for the purposes of the business of a telephone company, or used or to be used in connection with its business, when constructed or operated by the company.

Group 6. The operation, including construction and repair, of telegraph lines and wires for the purposes of the business of a telegraph company, or used or to be used in connection with its business, when constructed or operated by the company.

Group 7. Construction of telegraph and telephone lines not included in groups five and six.

* Compare definitions of "employer," "employee" and "employment," § 3, p. 226, *post*.

Group 8. The operation, within or without the state, including repair, of vessels other than vessels of other states or countries used in interstate or foreign commerce, when operated or repaired by the company.

Group 9. Shipbuilding, including construction and repair in a ship-yard or elsewhere, not included in group eight.

Group 10. Longshore work, including the loading or unloading of cargoes or parts of cargoes of grain, coal, ore, freight, general merchandise, lumber or other products or materials, or moving or handling the same on any dock, platform or place, or in any warehouse or other place of storage.

Group 11. Dredging, subaqueous or caisson construction, and pile driving.

Group 12. Construction, installation or operation of electric light and electric power lines, dynamos, or appliances, and power transmission lines.

Group 13. Paving; sewer and subway construction, work under compressed air, excavation, tunneling and shaft sinking, well digging, laying and repair of underground pipes, cables and wires, not included in other groups.

Group 14. Lumbering; logging, river-driving, rafting, booming, saw mills, shingle mills, lath mills; manufacture of veneer and of excelsior; manufacture of staves, spokes, or headings.

Group 15. Pulp and paper mills.

Group 16. Manufacture of furniture, interior woodwork, organs, pianos, piano actions, canoes, small boats, coffins, wicker and rattan ware; upholstering; manufacture of mattresses or bed springs.

Group 17. Planing mills, sash and door factories, manufacture of wooden and corrugated paper boxes, cheese boxes, mouldings, window and door screens, window shades, carpet sweepers, wooden toys, articles and wares or baskets.

Group 18. Mining; reduction of ores and smelting; preparation of metals or minerals.

Group 19. Quarries; sand, shale, clay or gravel pits, lime kilns; manufacture of brick, tile, terra-cotta, fire-proofing, or paving blocks, manufacture of calcium carbide, cement, asphalt or paving material.

Group 20. Manufacture of glass, glass products, glassware, porcelain or pottery.

Group 21. Iron, steel or metal foundries; rolling mills; manufacture of castings, forgings, heavy engines, locomotives, machinery, safes, anchors, cables, rails, shafting, wires, tubing, pipes, sheet metal, boilers, furnaces, stoves, structural steel, iron or metal.

Group 22. Operation and repair of stationary engines and boilers, not included in other groups.

Group 23. Manufacture of small castings or forgings, metal wares, instruments, utensils and articles, hardware, nails, wire goods, screens, bolts, metal beds, sanitary, water, gas or electric fixtures, light machines, typewriters, cash registers, adding machines, carriage mountings, bicycles, metal toys, tools, cutlery, instruments, photographic cameras and supplies, sheet metal products, buttons.

Group 24. Manufacture of agricultural implements, threshing machines, traction engines, wagons, carriages, sleighs, vehicles, automobiles, motor trucks, toy wagons, sleighs or baby carriages.

Group 25. Manufacture of explosives and dangerous chemicals, corrosive acids or salts, ammonia, gasoline, petroleum, petroleum products, celluloid, gas, charcoal, artificial ice, gun powder or ammunition.

Group 26. Manufacture of paint, color, varnish, oil, japans, turpentine, printing ink, printers' rollers, tar, tarred, pitched or asphalted paper.

Group 27. Distilleries, breweries; manufacture of spirituous or malt liquors, alcohol, wine, mineral water or soda waters.

Group 28. Manufacture of drugs and chemicals, not specified in group twenty-five, medicines, dyes, extracts, pharmaceutical or toilet preparations, soaps, candles, perfumes, non-corrosive acids or chemical preparations, fertilizers, including garbage disposal plants; shoe blacking or polish.

Group 29. Milling; manufacture of cereals or cattle foods, warehousing; storage; operation of grain elevators.

Group 30. Packing houses, abattoirs, manufacture or preparation of meats or meat products or glue.

Group 31. Tanneries.

Group 32. Manufacture of leather goods and products, belting, saddlery, harness, trunks, valises, boots, shoes, gloves, umbrellas, rubber goods, rubber shoes, tubing, tires or hose.

Group 33. Canning or preparation of fruit, vegetables, fish or food stuffs; pickle factories and sugar refineries.

Group 34. Bakeries, including manufacture of crackers and biscuits, manufacture of confectionery, spices or condiments.

Group 35. Manufacture of tobacco, cigars, cigarettes or tobacco products.

Group 36. Manufacture of cordage, ropes, fibre, brooms or brushes; manilla or hemp products.

Group 37. Flax mills; manufacture of textiles or fabrics, spinning, weaving and knitting manufactories; manufacture of yarn, thread, hosiery, cloth, blankets, carpets, canvas, bags, shoddy or felt.

Group 38. Manufacture of men's or women's clothing, white wear, shirts, collars, corsets, hats, caps, furs or robes.

Group 39. Power laundries; dyeing, cleaning or bleaching.

Group 40. Printing, photo-engraving, stereotyping, electrotyping, lithographing, embossing; manufacture of stationery, paper, cardboard boxes, bags, or wall-paper; and book-binding.

Group 41. The operation, otherwise than on tracks, on streets, highways, or elsewhere of cars, trucks, wagons or other vehicles, and rollers and engines, propelled by steam, gas, gasoline, electric, mechanical or other power or drawn by horses or mules.

Group 42. Stone cutting or dressing; marble works; manufacture of artificial stone; steel building and bridge construction; installation of elevators, fire escapes, boilers, engines or heavy machinery; brick-laying, tile-laying, mason work, stone-setting, concrete work, plastering; and manufacture of concrete blocks; structural carpentry; painting, decorating or renovating; sheet metal work; roofing; construction, repair and demolition of buildings and bridges; plumbing, sanitary or heating engineering; installation and covering of pipes or boilers.

An employee who has secured employment by the aid of false statements is not excepted from the benefits of the Workmen's Compensation Law. *Kenny v. Union Railway Co.*, 166 App. Div. 497.

§ 3. Definitions.—As used in this chapter, 1. "Hazardous employment" means a work or occupation described in section two of this chapter.

2. "Commission" means the state workmen's compensation commission, as constituted by this chapter.

3. "Employer," except when otherwise expressly stated, means a person, partnership, association, corporation, and the legal representatives of a deceased employer, or the receiver or trustee of a person, partnership, association or corporation, employing workmen in hazardous employments including the state and a municipal corporation or other political subdivision thereof. [Subd. 3 am'd by L. 1914, ch. 316.]

The Workmen's Compensation Law applies to such public employees only as are engaged in the hazardous occupations enumerated in § 2. Its application to public employees is further narrowed well nigh to the vanishing point by the definition of "employment" in subdivision 5 of this section. "There are not many occupations carried on by the State, its municipalities and political subdivisions, for pecuniary gain": Opinion of Attorney-General, June 9, 1914.

4. "Employee" means a person who is engaged in a hazardous employment in the service of an employer carrying on or conducting the same upon the premises or at the plant, or in the course of his employment away from the plant of his employer; and shall not include farm laborers or domestic servants.

For distinction between an employee and an independent contractor see decision of the Workmen's Compensation Commission in *Rheinwald v. Builders Brick and Supply Co.*, State Department Reports, Vol. 1, No. 3, p. 115. An employee accidentally injured without the State is entitled to compensation: Decision of commission in *Valentine v. Smith-Angevine Company & Aetna Life Insurance Company*, State Department Reports, Vol. 1, No. 8, p. 77.

5. "Employment" includes employment only in a trade, business or occupation carried on by the employer for pecuniary gain.

6. "Compensation" means the money allowance payable to an employee or to his dependents as provided for in this chapter, and includes funeral benefits provided therein.

7. "Injury" and "personal injury" mean only accidental injuries arising out of and in the course of employment and such disease or infection as may naturally and unavoidably result therefrom.

8. "Death" when mentioned as a basis for the right to compensation means only death resulting from such injury.

9. "Wages" means the money rate at which the service rendered is recompensed under the contract of hiring in force at the time of the accident, including the reasonable value of board, rent, housing, lodging or similar advantage received from the employer.

10. "State fund" means the state insurance fund provided for in article five of this chapter.

11. "Child" shall include a posthumous child and a child legally adopted prior to the injury of the employee.

12. "Insurance carrier" shall include the state fund, stock corporations or mutual associations with which employers have insured, and employers permitted to pay compensation directly under the provisions of subdivision three of section fifty.

ARTICLE 2

COMPENSATION

Section 10. Liability for compensation.

11. Alternative remedy.
12. Compensation not allowed for first two weeks.
13. Treatment and care of injured employees.
14. Weekly wages basis of compensation.
15. Schedule in case of disability.
16. Death benefits.
17. Aliens.
18. Notice of injury.
19. Medical examination.
20. Determination of claims for compensation.
21. Presumptions.
22. Modification of award.
23. Appeals from the commission.
24. Costs and fees.
25. Compensation, how payable.
26. Enforcement of payment in default.
27. Depositing future payments.
28. Limitation of right to compensation.
29. Subrogation to remedies of employee.
30. Revenues or benefits from other sources not to affect compensation.
31. Agreement for contribution by employee void.
32. Waiver agreements void.
33. Assignments; exemptions.
34. Preferences.

§ 10. Liability for compensation.—Every employer subject to the provisions of this chapter shall pay or provide as required by this chapter compensation according to the schedules of this article for the disability or death of his employee resulting from an accidental personal injury sustained by the employee arising out of and in the course of his employment, without regard to fault as a cause of such injury, except where the injury is occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty. Where the injury is occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty, neither the injured employee nor any dependent of such employee shall receive compensation under this chapter.

§ 11. Alternative remedy.—The liability prescribed by the last preceding section shall be exclusive, except that if an employer fail to secure the payment of compensation for his injured employees and their dependents as provided in section fifty of this chapter, an injured employee, or his legal representative in case death results from the injury, may, at his option, elect to claim compensation under this chapter, or to maintain an action in the courts for damages on account of such injury; and in such an action it shall not be necessary to plead or prove freedom from contributory negligence nor may the defendant plead as a defense that the injury was caused by the negligence of a fellow servant nor that the employee assumed the risk of his

employment, nor that the injury was due to the contributory negligence of the employee. [*Section 11 am'd by L. 1914, ch. 316.*]

For the General Employers' Liability Law, see article 14 of the Labor Law, p. 128, *ante*. See also §§ 29 and 53 of the Workmen's Compensation Law, pp. 235, 238; Liability of Railway Companies, p. 267; Damages for Injuries Causing Death, p. 268; and Criminal Liability for Negligence, p. 268, *post*.

§ 12. Compensation not allowed for first two weeks.—No compensation shall be allowed for the first fourteen days of disability, except the benefits provided for in section thirteen of this chapter.

§ 13. Treatment and care of injured employees.—The employer shall promptly provide for an injured employee such medical, surgical or other attendance or treatment, nurse and hospital service, medicines, crutches and apparatus as may be required or be requested by the employee, during sixty days after the injury. If the employer fail to provide the same, the injured employee may do so at the expense of the employer. The employee shall not be entitled to recover any amount expended by him for such treatment or services unless he shall have requested the employer to furnish the same and the employer shall have refused or neglected to do so. All fees and other charges for such treatment and services shall be subject to regulation by the commission as provided in section twenty-four of this chapter, and shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living.

§ 14. Weekly wages basis of compensation.—Except as otherwise provided in this chapter, the average weekly wages of the injured employee at the time of the injury shall be taken as the basis upon which to compute compensation or death benefits, and shall be determined as follows:

1. If the injured employee shall have worked in the employment in which he was working at the time of the accident, whether for the same employer or not, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary which he shall have earned in such employment during the days when so employed;

2. If the injured employee shall not have worked in such employment during substantially the whole of such year, his average annual earnings shall consist of three hundred times the average daily wage or salary which an employee of the same class working substantially the whole of such immediately preceding year in the same or in a similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed;

3. If either of the foregoing methods of arriving at the annual average earnings of an injured employee cannot reasonably and fairly be applied, such annual earnings shall be such sum as, having regard to the previous earnings of the injured employee and of other employees of the same or most similar class, working in the same or most similar employment in the same or neighboring locality, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the accident;

4. The average weekly wages of an employee shall be one-fifty-second part of his average annual earnings;

5. If it be established that the injured employee was a minor when injured, and that under normal conditions his wages would be expected to increase, the fact may be considered in arriving at his average weekly wages.

§ 15. Schedule in case of disability.—The following schedule of compensation is hereby established:

1. Total permanent disability. In case of total disability adjudged to be permanent sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance of such total disability. Loss of both hands, or both arms, or both feet, or both legs, or both eyes, or of any two thereof shall, in the absence of conclusive proof to the contrary, constitute permanent total disability. In all other cases permanent total disability shall be determined in accordance with the facts.

2. Temporary total disability. In case of temporary total disability, sixty-six and two-thirds per centum of the average weekly wages shall be paid to the employee during the continuance thereof, but not in excess of three thousand five hundred dollars, except as otherwise provided in this chapter.

3. Permanent partial disability. In case of disability partial in character but permanent in quality the compensation shall be sixty-six and two-thirds per centum of the average weekly wages and shall be paid to the employee for the period named in the schedule as follows:

Thumb. For the loss of a thumb, sixty weeks.

First finger. For the loss of a first finger, commonly called index finger, forty-six weeks.

Second finger. For the loss of a second finger, thirty weeks.

Third finger. For the loss of a third finger, twenty-five weeks.

Fourth finger. For the loss of a fourth finger, commonly called the little finger, fifteen weeks.

Phalange of thumb or finger. The loss of the first phalange of the thumb or finger shall be considered to be equal to the loss of one-half of such thumb or finger, and compensation shall be one-half of the amount above specified. The loss of more than one phalange shall be considered as the loss of the entire thumb or finger; provided, however, that in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.

The amputation of one-third of the first phalange of a finger has been held to constitute, in law, the loss of the phalange, and, therefore, the loss of half the finger: *Matter of Petrie*, 165 App. Div. 561; *aff'd*, Court of Appeals (June, 1915).

Great toe. For the loss of a great toe, thirty-eight weeks.

Other toes. For the loss of one of the toes other than the great toe, sixteen weeks.

Phalange of toe. The loss of the first phalange of any toe shall be considered to be equal to the loss of one-half of said toe, and the compensation shall be one-half of the amount specified. The loss of more than one phalange shall be considered as the loss of the entire toe.

Hand. The loss of a hand, two hundred and forty-four weeks.

Arm. For the loss of an arm, three hundred and twelve weeks.

Foot. For the loss of a foot, two hundred and five weeks.

Leg. For the loss of a leg, two hundred and eighty-eight weeks.

Eye. For the loss of an eye, one hundred and twenty-eight weeks.

Loss of use. Permanent loss of the use of a hand, arm, foot, leg or eye shall be considered as the equivalent of the loss of such hand, arm, foot, leg or eye.

Amputations. Amputation between the elbow and the wrist shall be considered as the equivalent of the loss of a hand. Amputation between the knee and the ankle shall be considered as the equivalent of the loss of a foot. Amputation at or above the elbow shall be considered as the loss of an arm. Amputation at or above the knee shall be considered as the loss of the leg.

The compensation for the foregoing specific injuries shall be in lieu of all other compensation, except the benefits provided in section thirteen of this chapter.

Other cases. In all other cases in this class of disability, the compensation shall be sixty-six and two-thirds per centum of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, payable during the continuance of such partial disability, but subject to reconsideration of the degree of such impairment by the commission on its own motion or upon application of any party in interest.

4. Temporary partial disability. In case of temporary partial disability, except the particular cases mentioned in subdivision three of this section, an injured employee shall receive sixty-six and two-thirds per centum of the difference between his average weekly wages and his wage earning capacity thereafter in the same employment or otherwise during the continuance of such partial disability, but not in excess of three thousand five hundred dollars, except as otherwise provided in this chapter.

5. Limitation. The compensation payment under subdivisions one, two and four and under subdivision three except in case of the loss of a hand, arm, foot, leg or eye, shall not exceed fifteen dollars per week nor be less than five dollars per week; the compensation payment under subdivision three in case of the loss of a hand, arm, foot, leg or eye, shall not exceed twenty dollars per week nor be less than five dollars a week; provided, however, that if the employee's wages at the time of injury are less than five dollars per week he shall receive his full weekly wages.

6. Previous disability. The fact that an employee has suffered previous disability or received compensation therefor shall not preclude him from compensation for a later injury nor preclude compensation for death resulting therefrom; but in determining compensation for the later injury or death his average weekly wages shall be such sum as will reasonably represent his earning capacity at the time of the later injury, provided, however, that an employee who is suffering from a previous disability shall not receive compensation for a later injury in excess of the compensation allowed for such injury when considered by itself and not in conjunction with the previous disability. [*Subd. 6 am'd by L. 1915, ch. 615.*]

§ 16. Death benefits.—If the injury causes death, the compensation shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following:

1. Reasonable funeral expenses not exceeding one hundred dollars;
2. If there be a surviving wife (or dependent husband) and no child of the * deceased under the age of eighteen years, to such wife (or dependent hus-

* So in original.

band) thirty per centum of the average wages of the deceased during widowhood (or dependent widowerhood) with two years' compensation in one sum, upon remarriage; and if there be surviving child or children of the deceased under the age of eighteen years, the additional amount of ten per centum of such wages for each such child until of the age of eighteen years; in case of the subsequent death of such surviving wife (or dependent husband) any surviving child of the deceased employee, at the time under eighteen years of age, shall have his compensation increased to fifteen per centum of such wages, and the same shall be payable until he shall reach the age of eighteen years; provided that the total amount payable shall in no case exceed sixty-six and two-thirds per centum of such wages. [*Subd. 2 am'd by L. 1914, ch. 316.*]

3. If there be surviving child or children of the deceased under the age of eighteen years, but no surviving wife (or dependent husband) then for the support of each such child until of the age of eighteen years, fifteen per centum of the wages of the deceased, provided that the aggregate shall in no case exceed sixty-six and two-thirds per centum of such wages.

4. If the amount payable to surviving wife (or dependent husband) and to children under the age of eighteen years shall be less in the aggregate than sixty-six and two-thirds per centum of the average wages of the deceased, then for the support of grandchildren or brothers and sisters under the age of eighteen years, if dependent upon the deceased at the time of the accident, fifteen per centum of such wages for the support of each such person until of the age of eighteen years; and for the support of each parent, or grandparent, of the deceased if dependent upon him at the time of the accident, fifteen per centum of such wages during such dependency. But in no case shall the aggregate amount payable under this subdivision exceed the difference between sixty-six and two-thirds per centum of such wages, and the amount payable as hereinbefore provided to surviving wife (or dependent husband) or for the support of surviving child or children.

Any excess of wages over one hundred dollars a month shall not be taken into account in computing compensation under this section. All questions of dependency shall be determined as of the time of the accident.

§ 17. Aliens.—Compensation under this chapter to aliens not residents (or about to become nonresidents) of the United States or Canada, shall be the same in amount as provided for residents, except that the commission may, at its option, or upon the application of the insurance carrier, shall, commute all future instalments of compensation to be paid to such aliens, by paying or causing to be paid to them one-half of the commuted amount of such future instalments of compensation as determined by the commission.

§ 18. Notice of injury.—Notice of an injury for which compensation is payable under this chapter shall be given to the commission and to the employer within ten days after disability, and also in case of the death of the employee resulting from such injury, within thirty days after such death. Such notice may be given by any person claiming to be entitled to compensation, or by some one in his behalf. The notice shall be in writing, and contain the name and address of the employee and state in ordinary language the time, place, nature and cause of the injury, and be signed by him or by a person on his behalf or, in case of death, by any one or more of his dependents or by a person on their behalf. It shall be given to the commission

by sending it by mail, by registered letter, addressed to the commission at its office. It shall be given to the employer by delivering it to him or sending it by mail, by registered letter, addressed to the employer at his or its last known place of residence; provided that, if the employer be a partnership then such notice may be so given to any one of the partners, and if the employer be a corporation, then such notice may be given to any agent or officer thereof upon whom legal process may be served, or any agent in charge of the business in the place where the injury occurred. The failure to give such notice, unless excused by the commission either on the ground that notice for some sufficient reason could not have been given, or on the ground that the state fund, insurance company, or employer, as the case may be, has not been prejudiced thereby, shall be a bar to any claim under this chapter.

§ 19. **Medical examination.**—An employee injured claiming or entitled to compensation under this chapter shall, if requested by the commission, submit himself for medical examination at a time, and from time to time, at a place reasonably convenient for the employee, and as may be provided by the rules of the commission. If the employee or the insurance carrier request he shall be entitled to have a physician or physicians of his own selection to be paid by him present to participate in such examination. If an employee refuse to submit himself to examination, his right to prosecute any proceeding under this chapter shall be suspended, and no compensation shall be payable, for the period of such refusal.

§ 20. **Determination of claims for compensation.**—At any time after the expiration of the first fourteen days of disability on the part of an injured employee, or at any time after his death, a claim for compensation may be presented to the employer and if rejected or if within ten days after presentation, a report containing an agreement for compensation be not made and filed with the commission as provided by this section, the claim may be presented to the commission. The commission shall have full power and authority to determine all questions in relation to the payment of claims presented to it for compensation under the provisions of this chapter. The commission shall make or cause to be made such investigations as it deems necessary, and upon application of either party, shall order a hearing, and within thirty days after a claim for compensation is submitted under this section, or such hearing closed, shall make or deny an award, determining such claim for compensation, and file the same in the office of the commission, together with a statement of its conclusions of fact and rulings of law. The commission may before making an award, require the claimant to appear before an arbitration committee appointed by it and consisting of one representative of employees, one representative of employers, and either a member of the commission or a person specially deputed by the commission to act as chairman, before which the evidence in regard to the claim shall be adduced and by which it shall be considered and reported upon. Immediately after such filing the commission shall send to the parties a copy of the decision. Upon a hearing pursuant to this section either party may present evidence and be represented by counsel. The decision of the commission shall be final as to all questions of fact, and, except as provided in section twenty-three, as to all questions of law. When a claim

is presented to an employer, and the employer and employee, or in case of death, his principal dependent, enter into an agreement for the payment of compensation therefor pursuant to this chapter, a joint report of such claim containing such agreement shall be made to the commission upon a form prepared by it and signed by the employer and employee, or in case of death his principal dependent. The commission shall examine such report and approve the same when the terms are strictly in accordance with this chapter and such approval shall constitute an award. However, the commission may make an award in the manner provided in this section in any case, and if the terms of the award vary from the joint report, the employer shall comply with the award. In case of unfair dealing or of bad faith on the part of the employer under this section, the commission may impose a penalty of not more than ten per centum of the award. [*As am'd by L. 1915, ch. 167.*]

L. 1915, ch. 167, § 2, makes special provision relative to claims pending April 1, 1915.

§ 20-a. Payment of moneys in advance of award by commission.— Any employer shall upon the making of the agreement provided for in section twenty advance to any injured employee or to the principal dependent of a deceased employee, the payment or payments provided for in the agreement, in return for which he shall receive a receipt on a form supplied by the commission and signed by the person receiving the money, which receipt shall specifically state in what capacity the signer acted while so receiving such money; such receipt shall be forwarded to the commission within forty-eight hours after date of its issuance and the sum stated on its face shall be returned to said employer as provided in section twenty-five.

Prior to the making of said agreement or in the event of no agreement, any employer may at his option advance to any injured employee or to the principal dependent of a deceased employee any sum of money, in return for which he shall receive a receipt on a form supplied by the commission and signed by the person receiving the money, which receipt shall specifically state in what capacity the signer acted while so receiving such money; such receipt shall be forwarded to the commission within forty-eight hours after date of its issuance. Should any agreement or award be made the sum so stated on the face of the receipt shall be credited to the payment under the award or agreement and shall be repaid as hereinbefore provided. Any money so advanced shall be at the employer's risk. [*Added by L. 1915, ch. 168.*]

§ 21. Presumptions.— In any proceeding for the enforcement of a claim for compensation under this chapter, it shall be presumed in the absence of substantial evidence to the contrary

1. That the claim comes within the provisions of this chapter;
2. That sufficient notice thereof was given;
3. That the injury was not occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another;
4. That the injury did not result solely from the intoxication of the injured employee while on duty.

§ 22. Modification of award.— Upon its own motion or upon the application of any party in interest, on the ground of a change in conditions, the com-

mission may at any time review any award, and, on such review, may make an award ending, diminishing or increasing the compensation previously awarded, subject to the maximum or minimum provided in this chapter, and shall state its conclusions of fact and rulings of law, and shall immediately send to the parties a copy of the award. No such review shall affect such award as regards any moneys already paid.

§ 23. Appeals from the commission.—An award or decision of the commission shall be final and conclusive upon all questions within its jurisdiction, as against the state fund or between the parties, unless within thirty days after a copy of such award or decision has been sent to the parties, an appeal be taken to the appellate division of the supreme court of the third department. The commission may also, in its discretion, where the claim for compensation was not made against the state fund, on the application of either party, certify to such appellate division of the supreme court, questions of law involved in its decision. Such appeals and the questions so certified shall be heard in a summary manner and shall have precedence over all other civil cases in such court. The commission shall be deemed a party to every such appeal, and the attorney-general, without extra compensation, shall represent the commission thereon. An appeal may also be taken to the court of appeals in all cases where such an appeal would lie from a decision of an appellate division, in the same manner and subject to the same limitations as is now provided in civil actions. Otherwise such appeals shall be subject to the law and practice applicable to appeals in civil actions. Upon the final determination of such an appeal, the commission shall make an award or decision in accordance therewith.

§ 24. Costs and fees.—If the commission or the court before which any proceedings for compensation or concerning an award of compensation have been brought, under this chapter, determines that such proceedings have not been so brought upon reasonable ground, it shall assess the whole cost of the proceeding upon the party who has so brought them. Claims for legal services in connection with any claim arising under this chapter, and claims for services or treatment rendered or supplies furnished pursuant to section thirteen of this chapter, shall not be enforceable unless approved by the commission. If so approved, such claim or claims shall become a lien upon the compensation awarded, but shall be paid therefrom only in the manner fixed by the commission.

§ 25. Compensation, how payable.—Compensation under the provisions of this chapter shall be payable periodically by the employer, in accordance with the method of payment of the wages of the employee at the time of his injury or death, and shall be so provided for in any award; but the commission may determine that any payments may be made monthly or at any other period, as it may deem advisable. The state or insurance corporation in which an employer is insured shall, within ten days after demand by such employer and on the presentation of evidence of payment of compensation in accordance with this chapter, reimburse the employer therefor. An injured employee, or in case of death his dependents or personal representative, shall give receipts for payment of compensation to the employer paying the same and such employer shall forward receipts therefor promptly to the commission. The commission, whenever it shall so deem advisable,

may commute such periodical payments to one or more lump sum payments to the injured employee or, in case of death, his dependents, provided the same shall be in the interest of justice. [*As am'd by L. 1915, ch. 167.*]

§ 26. Enforcement of payment in default.—If payment of compensation, or an instalment thereof, due under the terms of an award, be not made by the employer within ten days after the same is due, the insurance carrier shall be liable therefor and if not paid within ten days after demand by the injured employee or in case of death his dependents or by the commission, the amount of such payment shall constitute a liquidated claim for damages against the self-insurer or insurance corporation, which with an added penalty of fifty per centum may be recovered in an action to be instituted by the commission in the name of the people of the state. An employer who negligently or intentionally defaults in payment of compensation in the the first instance under this chapter shall be liable to a penalty of not more than ten per centum of the amount of such compensation, notwithstanding the fact that the insurance corporation or state fund subsequently pays the compensation as provided in this section. If such default be made in the payment of an instalment of compensation and the whole amount of such compensation be not due, the commission may, if the present value of such compensation be computable, declare the whole amount thereof due, and recover the amount thereof with the added penalties, as provided by this section. Any such action may be compromised by the commission or may be prosecuted to final judgment as, in the discretion of the commission, may best serve the interests of the persons entitled to receive the compensation or the benefits. Compensation recovered under this section shall be disbursed by the commission to the persons entitled thereto in accordance with the award. A penalty recovered pursuant to this section shall be paid into the state treasury, and be applicable to the expenses of the commission. [*As am'd by L. 1915, ch. 167.*]

§ 27. Depositing future payments.—If an award under this chapter requires payment of compensation by an employer or an insurance corporation in periodical payments, and the nature of the injury makes it possible to compute the present value of all future payments with due regard for life contingencies, the commission may, in its discretion, at any time, compute and permit or require to be paid into the state fund an amount equal to the present value of all unpaid compensation for which liability exists, in trust; and thereupon such employer or insurance corporation shall be discharged from any further liability under such award and payment of the same shall be assumed by the state fund.

§ 28. Limitation of right to compensation.—The right to claim compensation under this chapter shall be forever barred unless within one year after the injury or if death result therefrom, within one year after such death, a claim for compensation thereunder shall be filed with the commission.

§ 29. Subrogation to remedies of employees.—If a workman entitled to compensation under this chapter be injured or killed by the negligence or wrong of another not in the same employ, such injured workman, or in case of death, his dependents, shall, before any suit or claim under this chapter, elect whether to take compensation under this chapter or to pursue

his remedy against such other. Such election shall be evidenced in such manner as the commission may by rule or regulation prescribe. If he elect to take compensation under this chapter, the cause of action against such other shall be assigned to the state for the benefit of the state insurance fund, if compensation be payable therefrom, and otherwise to the person or association or corporation liable for the payment of such compensation, and if he elect to proceed against such other, the state insurance fund, person or association or corporation, as the case may be, shall contribute only the deficiency, if any, between the amount of the recovery against such other person actually collected, and the compensation provided or estimated by this chapter for such case. Such a cause of action assigned to the state may be prosecuted or compromised by the commission. A compromise of any such cause of action by the workman or his dependents at an amount less than the compensation provided for by this chapter shall be made only with the written approval of the commission, if the deficiency of compensation would be payable from the state insurance fund, and otherwise with the written approval of the person, association or corporation liable to pay the same.

§ 30. Revenues or benefits from other sources not to affect compensation.—No benefits, savings or insurance of the injured employee, independent of the provisions of this chapter, shall be considered in determining the compensation or benefits to be paid under this chapter, except that, in case of the death of an employee of the state, a municipal corporation or any other political subdivision of the state, any benefit payable under a pension system which is not sustained in whole or in part by the contributions of the employee, may be applied toward the payment of the death benefit provided by this chapter. [*Section 30 am'd by L. 1914, ch. 316.*]

§ 31. Agreement for contribution by employee void.—No agreement by an employee to pay any portion of the premium paid by his employer to the state insurance fund or to contribute to a benefit fund or department maintained by such employer or to the cost of mutual insurance or other insurance, maintained for or carried for the purpose of providing compensation as herein required, shall be valid, and any employer who makes a deduction for such purpose from the wages or salary of any employee entitled to the benefits of this chapter shall be guilty of a misdemeanor.

§ 32. Waiver agreements void.—No agreement by an employee to waive his right to compensation under this chapter shall be valid.

§ 33. Assignments; exemptions.—Claims for compensation or benefits due under this chapter shall not be assigned, released or commuted except as provided by this chapter, and shall be exempt from all claims of creditors and from levy, execution and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived. Compensation and benefits shall be paid only to employees or their dependents.

§ 34. Preferences.—The right of compensation granted by this chapter shall have the same preference or lien without limit of amount against the assets of the employer as is now or hereafter may be allowed by law for a claim for unpaid wages for labor.

ARTICLE 3

SECURITY FOR COMPENSATION

Section 50. Security for payment of compensation.

- 51. Posting of notice regarding compensation.
- 52. Effect of failure to secure compensation.
- 53. Release from all liability.
- 54. The insurance contract.

§ 50. Security for payment of compensation.—An employer shall secure compensation to his employees in one of the following ways:

1. By insuring and keeping insured the payment of such compensation in the state fund, or

2. By insuring and keeping insured the payment of such compensation with any stock corporation or mutual association authorized to transact the business of workmen's compensation insurance in this state. If insurance be so effected in such a corporation or mutual association the employer shall forthwith file with the commission, in form prescribed by it, a notice specifying the name of such insurance corporation or mutual association together with a copy of the contract or policy of insurance.

Mutual employers' liability and workmen's compensation corporations are governed by the insurance law, §§ 185–194, as added by L. 1913, ch. 832, and § 67, as added by L. 1914, ch. 16.

3. By furnishing satisfactory proof to the commission of his financial ability to pay such compensation for himself, in which case the commission may, in its discretion, require the deposit with the commission of securities of the kind prescribed in section thirteen of the insurance law, in an amount to be determined by the commission, to secure his liability to pay the compensation provided in this chapter.

If an employer fail to comply with this section, he shall be liable to a penalty during which such failure continues of an amount equal to the pro rata premium which would have been payable for insurance in the state fund for such period of noncompliance to be recovered in an action brought by the commission.

The commission may, in its discretion, for good cause shown, remit any such penalty, provided the employer in default secure compensation as provided in this section. [*Subd. 3 am'd by L. 1914, ch. 316.*]

§ 51. Posting of notice regarding compensation.—Every employer who has complied with section fifty of this chapter shall post and maintain in a conspicuous place or places in and about his place or places of business type-written or printed notices in form prescribed by the commission, stating the fact that he has complied with all the rules and regulations of the commission and that he has secured the payment of compensation to his employees and their dependents in accordance with the provisions of this chapter.

§ 52. Effect of failure to secure compensation.—Failure to secure the payment of compensation shall have the effect of enabling the injured employee or his dependents to maintain an action for damages in the courts, as prescribed by section eleven of this chapter.

§ 53. Release from all liability.—An employer securing the payment of compensation by contributing premiums to the state fund shall thereby become relieved from all liability for personal injuries or death sustained by his employees, and the persons entitled to compensation under this chapter shall have recourse therefor only to the state fund and not to the employer. An employer shall not otherwise be relieved from the liability for compensation prescribed by this chapter except by the payment thereof by himself or his insurance carrier.

§ 54. The insurance contract.—1. Right of recourse to the insurance carrier. Every policy of insurance covering the liability of the employer for compensation issued by a stock company or by a mutual association authorized to transact workmen's compensation insurance in this state shall contain a provision setting forth the right of the commission to enforce in the name of the people of the state of New York for the benefit of the person entitled to the compensation insured by the policy either by filing a separate application or by making the insurance carrier a party to the original application, the liability of the insurance carrier in whole or in part for the payment of such compensation; provided, however, that payment in whole or in part of such compensation by either the employer or the insurance carrier shall to the extent thereof be a bar to the recovery against the other of the amount so paid.

2. Knowledge and jurisdiction of the employer extended to cover the insurance carrier. Every such policy shall contain a provision that, as between the employee and the insurance carrier, the notice to or knowledge of the occurrence of the injury on the part of the employer shall be deemed notice or knowledge, as the case may be, on the part of the insurance carrier; that jurisdiction of the employer shall, for the purpose of this chapter, be jurisdiction of the insurance carrier and that the insurance carrier shall in all things be bound by and subject to the orders, findings, decisions or awards rendered against the employer for the payment of compensation under the provisions of this chapter.

3. Insolvency of employer does not release the insurance carrier. Every such policy shall contain a provision to the effect that the insolvency or bankruptcy of the employer shall not relieve the insurance carrier from the payment of compensation for injuries or death sustained by an employee during the life of such policy.

4. Limitation of indemnity agreements. Every contract or agreement of an employer the purpose of which is to indemnify him from loss or damage on account of the injury of an employee by accidental means, or on account of the negligence of such employer or his officer, agent or servant, shall be absolutely void unless it shall also cover liability for the payment of the compensation provided for by this chapter.

5. Cancellation of insurance contracts. No contract of insurance issued by a stock company or mutual association against liability arising under this chapter shall be cancelled within the time limited in such contract for its expiration until at least ten days after notice of intention to cancel such contract, on a date specified in such notice, shall be filed in the office of the commission and also served on the employer. Such notice shall be served on

the employer by delivering it to him or by sending it by mail, by registered letter, addressed to the employer at his or its last known place of residence; provided that, if the employer be a partnership, then such notice may be so given to any one of the partners, and if the employer be a corporation then the notice may be given to any agent or officer of the corporation upon whom legal process may be served.

ARTICLE 4

STATE WORKMEN'S COMPENSATION COMMISSION

Section 60. State workmen's compensation commission.*

- 61. Secretary, deputies and other employees.*
- 62. Salaries and expenses.
- 63. Office.
- 64. Sessions of commission.
- 65. Powers of individual commissioners and deputy commissioners.
- 66. Powers and duties of secretary.
- 67. Rules.
- 68. Technical rules of evidence or procedure not required.
- 69. Issue of subpoena; penalty for failure to obey.
- 70. Recalcitrant witnesses punishable as for contempt.
- 71. Fees and mileage of witnesses.
- 72. Depositions.
- 73. Transcript of stenographer's minutes; effect as evidence.
- 74. Jurisdiction of commission to be continuing.
- 75. Report of commission.
- 76. Commission to furnish blank forms.

§ 62. Expenses.—The commission may make the necessary expenditure to obtain statistical and other information to establish classifications of employments with respect to hazards and risks. The expenses of the commission, including the premiums to be paid by the state treasurer for the bond to be furnished by him, shall be paid out of the state treasury upon vouchers signed by at least two commissioners. [*As am'd by L. 1915, ch. 674.*]

§ 63. Office.—The commission shall keep and maintain its principal office in the city of Albany, in rooms in the capitol assigned by the trustees of public buildings. The office shall be supplied with necessary office furniture, supplies, books, maps, stationery, telephone connections and other necessary appliances, at the expense of the state, payable in the same manner as other expenses of the commission.

§ 64. Sessions of commission.—The commission shall be in continuous session and open for the transaction of business during all business hours of every day excepting Sundays and legal holidays. All sessions shall be open to the public and may be adjourned, upon entry thereof in its records, without further notice. Whenever convenience of parties will be promoted or delay and expense prevented, the commission may hold sessions in cities other than the city of Albany. A party may appear before such commission and be heard in person or by attorney. Every vote and official act of the

* §§ 60, 61, of the Workmen's Compensation Law were repealed, and the functions of the Workmen's Compensation Commission transferred to the newly created Industrial Commission, by L. 1915, ch. 674, §§ 2-8. For organization and functions of the Industrial Commission compare Labor Law, §§ 40-52-e, pp. 25-33, *ante*.

commission shall be entered of record, and the records shall contain a record of each case considered, and the award, decision or order made with respect thereto, and all voting shall be by the calling of each commissioner's name by the secretary and each vote shall be recorded as cast. A majority of the commission shall constitute a quorum. A vacancy shall not impair the right of the remaining commissioners to exercise all the powers of the full commission so long as a majority remains.

§ 65. Powers of individual commissioners and deputy commissioners.—Any investigation, inquiry or hearing which the commission is authorized to hold or undertake may be held or taken by or before any commissioner or deputy commissioner, and the award, decision or order of a commissioner or deputy commissioner, when approved and confirmed by the commission and ordered filed in its office, shall be deemed to be the award, decision or order of the commission. Each commissioner and deputy shall, for the purposes of this chapter, have power to administer oaths, certify to official acts, take depositions, issue subpoenas, compel the attendance of witnesses and the production of books, accounts, papers, records, documents and testimony. The commission may authorize any deputy to conduct any such investigation, inquiry or hearing, in which case he shall have the power of a commissioner in respect thereof.

§ 66. Powers and duties of secretary.—The secretary of the commission shall:

1. Maintain a full and true record of all proceedings of the commission, of all documents or papers ordered filed by the commission, of decisions or orders made by a commissioner or deputy commissioner, and of all decisions or orders made by the commission or approved and confirmed by it and ordered filed, and he shall be responsible to the commission for the safe custody and preservation of all such documents at its office;

2. Have power to administer oaths in all parts of the state, so far as the exercise of such power is properly incident to the performance of his duty or that of the commission;

3. Designate, from time to time, with the approval of the commission, one of the clerks appointed by the commission to exercise the powers and duties of the secretary during his absence;

4. Under the direction of the commission, have general charge of its office, superintend its clerical business, and perform such other duties as the commission may prescribe.

The duties prescribed by this section devolve upon the secretary of the Industrial Commission under the Labor Law, § 49, p. 28, *ante*.

§ 67. Rules.—The commission shall adopt reasonable rules, not inconsistent with this chapter, regulating and providing for

1. The kind and character of notices, and the service thereof, in case of accident and injury to employees;

2. The nature and extent of the proofs and evidence, and the method of taking and furnishing the same, to establish the right to compensation;

3. The forms of application for those claiming to be entitled to compensation;

4. The method of making investigations, physical examinations and inspections;
5. The time within which adjudications and awards shall be made;
6. The conduct of hearings, investigations and inquiries;
7. The giving of undertakings by all subordinates who are empowered to receive and disburse moneys, to be approved by the attorney-general as to form and by the comptroller as to sufficiency;
8. Carrying into effect the provisions of this chapter;
9. The collection, maintenance and disbursement of the state insurance fund.

§ 68. **Technical rules of evidence or procedure not required.**—The commission or a commissioner or deputy commissioner in making an investigation or inquiry or conducting a hearing shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by this chapter; but may make such investigation or inquiry or conduct such hearing in such manner as to ascertain the substantial rights of the parties.

§ 69. **Issue of subpoena; penalty for failure to obey.**—A subpoena shall be signed and issued by a commissioner, a deputy commissioner or by the secretary of the commission and may be served by any person of full age in the same manner as a subpoena issued out of a court of record. If a person fail, without reasonable cause, to attend in obedience to a subpoena, or to be sworn or examined or answer a question or produce a book or paper, or to subscribe and swear to his deposition after it has been correctly reduced to writing, he shall be guilty of a misdemeanor.

§ 70. **Recalcitrant witnesses punishable as for contempt.**—If a person in attendance before the commission or a commissioner or deputy commissioner refuses, without reasonable cause, to be examined, or to answer a legal and pertinent question or to produce a book or paper, when ordered so to do by the commission or a commissioner or deputy commissioner, the commission may apply to a justice of the supreme court upon proof by affidavit of the facts for an order returnable in not less than two nor more than five days directing such person to show cause before the justice who made the order, or any other justice of the supreme court, why he should not be committed to jail. Upon the return of such order the justice shall examine under oath such person and give him an opportunity to be heard; and if the justice determine that he has refused without reasonable cause or legal excuse to be examined or to answer a legal and pertinent question, or to produce a book or paper which he was ordered to bring, he may forthwith, by warrant, commit the offender to jail, there to remain until he submits to do the act which he was so required to do or is discharged according to law.

§ 71. **Fees and mileage of witnesses.**—Each witness who appears in obedience to a subpoena before the commission or a commissioner or deputy commissioner, or person employed by the commission to obtain the required information, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the supreme court, which shall be audited and paid from the state treasury in the same manner as other expenses of the

commission. A witness subpoenaed at the instance of a party other than the commission, a commissioner, deputy commissioner or person acting under the authority of the commission shall be entitled to fees or compensation from the state treasury, if the commission certify that his testimony was material to the matter investigated, but not otherwise.

§ 72. **Depositions.**—The commission may cause depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the supreme court.

§ 73. **Transcript of stenographer's minutes; effect as evidence.**—A transcribed copy of the testimony, evidence and procedure or of a specific part thereof, or of the testimony of a particular witness or of a specific part thereof, on any investigation, by a stenographer appointed by the commission, being certified by such stenographer to be a true and correct transcript thereof and to have been carefully compared by him with his original notes, may be received in evidence by the commission with the same effect as if such stenographer were present and testified to the facts so certified, and a copy of such transcript shall be furnished on demand to any party upon payment of the fee provided for a transcript of similar minutes in the supreme court.

§ 74. **Jurisdiction of commission to be continuing.**—The power and jurisdiction of the commission over each case shall be continuing, and it may, from time to time, make such modification or change with respect to former findings or orders relating thereto, as in its opinion may be just.

§ 75. **Report of commission.**—Annually on or before the first day of February, the commission shall make a report to the legislature, which shall include a statement of the number of awards made by it and the causes of the accidents leading to the injuries for which the awards were made, a detailed statement of the expenses of the commission, the condition of the state insurance fund, together with any other matter which the commission deems proper to report to the legislature, including any recommendations it may desire to make.

§ 76. **Commission to furnish blank forms.**—The commission shall prepare and cause to be distributed so that the same may be readily available blank forms of application for compensation, notice to employers, proofs of injury or death, of medical or other attendance or treatment, of employment and wage earnings, and for such other purposes as may be required. Insured employers shall constantly keep on hand a sufficient supply of such blanks.

ARTICLE 5

STATE INSURANCE FUND

Section 90. Creation of state fund.

91. State treasurer custodian of fund.

92. Surplus and reserve.

93. Investment of surplus or reserve.

94. Administration expense.

95. Classification of risks and adjustment of premiums.

96. Associations for accident prevention.

97. Requirements in classifying employment and fixing and adjusting premium rates.

Section 98. Time of payment of premiums.

- 99. Action for collection in case of default.
- 100. Withdrawal from fund.
- 101. Audit of payrolls.
- 102. Falsification of payroll.
- 103. Willful misrepresentation.
- 104. Inspections.
- 105. Disclosures prohibited.

§ 90. Creation of state fund.—There is hereby created a fund to be known as "the state insurance fund," for the purpose of insuring employers against liability under this chapter and of assuring to the persons entitled thereto the compensation provided by this chapter. Such fund shall consist of all premiums received and paid into the fund, of property and securities acquired by and through the use of moneys belonging to the fund and of interest earned upon moneys belonging to the fund and deposited or invested as herein provided. Such fund shall be administered by the commission without liability on the part of the state beyond the amount of such fund. Such fund shall be applicable to the payment of losses sustained on account of insurance and to the payment of expenses in the manner provided in this chapter.

§ 91. State treasurer custodian of fund.—The state treasurer shall be the custodian of the state insurance fund; and all disbursements therefrom shall be paid by him upon vouchers authorized by the commission and signed by any two members thereof. The state treasurer shall give a separate and additional bond in an amount to be fixed by the governor and with sureties approved by the state comptroller conditioned for the faithful performance of his duty as custodian of the state fund. The state treasurer may deposit any portion of the state fund not needed for immediate use, in the manner and subject to all the provisions of law respecting the deposit of other state funds by him. Interest earned by such portion of the state insurance fund deposited by the state treasurer shall be collected by him and placed to the credit of the fund.

§ 92. Surplus and reserve.—Ten per centum of the premiums collected from employers insured in the fund shall be set aside by the commission for the creation of a surplus until such surplus shall amount to the sum of one hundred thousand dollars, and thereafter five per centum of such premiums, until such time as in the judgment of the commission such surplus shall be sufficiently large to cover the catastrophe hazard. The commission shall also set up and maintain a reserve adequate to meet anticipated losses and carry all claims and policies to maturity.

§ 93. Investment of surplus or reserve.—The commission may, pursuant to a resolution of the commission approved by the comptroller, invest any of the surplus or reserve funds belonging to the state insurance fund in the same securities and investments authorized for investment by savings banks. All such securities or evidences of indebtedness shall be placed in the hands of the state treasurer who shall be the custodian thereof. He shall collect the principal and interest thereof, when due, and pay the same into the state insurance fund. The state treasurer shall pay all vouchers drawn on the state insurance fund for the making of such investments when signed by two members of the commission, upon delivery of such securities or evi-

dences of indebtedness to him, when there is attached to such vouchers a certified copy of the resolution of the commission authorizing the investment. The commission may, upon like resolution approved by the comptroller, sell any of such securities.

§ 94. **Administration expense.**—The entire expense of administering the state insurance fund shall be paid in the first instance by the state, out of moneys appropriated therefor. In the month of January, nineteen hundred and eighteen, and annually thereafter in such month, the commission shall ascertain the just amount incurred by the commission during the preceding calendar year, in the administration of the state insurance fund exclusive of the expense for the examination, determination and payment of claims, and shall refund such amount to the state treasury. If there be employees of the commission other than the commissioners themselves and the secretary whose time is devoted partly to the general work of the commission and partly to the work of the state insurance fund, and in case there is other expense which is incurred jointly on behalf of the general work of the commission and the state insurance fund, an equitable apportionment of the expense shall be made for such purpose and the part thereof which is applicable to the state insurance fund shall be chargeable thereto. As soon as practicable after December thirty-one, nineteen hundred and seventeen, and annually thereafter, the commission shall calculate the total administrative expense incurred during the preceding calendar year in connection with the examination, determination and payment of claims and the percentage which this expense bore to the total compensation payments made during that year. The percentage so calculated and determined shall be assessed against the insurance carriers including the state fund as an addition to the payments required from them in the settlement of claims during the year immediately following, and the amounts so secured shall be transferred to the state treasury to reimburse it for this portion of the expense of administering this chapter.

§ 95. **Classification of risks and adjustment of premiums.**—Employments coming under the provisions of this chapter shall be divided for the purposes of the state fund, into the groups set forth in section two of this chapter. Separate accounts shall be kept of the amounts collected and expended in respect to each such group for convenience in determining equitable rates; but for the purpose of paying compensation the state fund shall be deemed one and indivisible. The commission shall have power to rearrange any of the groups set forth in section two by withdrawing any employment embraced in it and transferring it wholly or in part to any other group, and from such employments to set up new groups at its discretion. The commission shall determine the hazards of the different classes composing each group and fix the rates of premiums therefor based upon the total payroll and number of employees in each of such classes of employment at the lowest possible rate consistent with the maintenance of a solvent state insurance fund and the creation of a reasonable surplus and reserve; and for such purpose may adopt a system of schedule rating in such a manner as to take account of the peculiar hazard of each individual risk.

§ 96. **Associations for accident prevention.**—The employers in any of the groups described in section two or established by the commission may with the approval of the commission form themselves into an association for

accident prevention, and may make rules for that purpose. If the commission is of the opinion that an association so formed sufficiently represents the employers in such group, it may approve such rules, and when so approved and approved by the industrial board of the labor department they shall be binding on all employers in such group. If such an approved association appoint an inspector or expert for the purpose of accident prevention, the commission may at its discretion provide in whole or in part for the payment of the remuneration and expenses of such inspector or expert, such payment to be charged in the accounting to such group. Every such approved association may make recommendations to the commission concerning the fixing of premiums for classes of hazards, and for individual risks within such group.

For the powers and duties of directors of mutual employers' liability and workmen's compensation corporations relative to accident prevention, compare Insurance Law, § 193.

§ 97. Requirements in classifying employment and fixing and adjusting premium rates.—The following requirements shall be observed in classifying employments and fixing and adjusting premium rates:

1. The commission shall keep an accurate account of the money paid in premiums by each of the several classes of employments or industries, and the disbursements on account of injuries and deaths of employees thereof, including the setting up of reserves adequate to meet anticipated losses and to carry the claims to maturity, and also, on account of the money received from each individual employer and the amount disbursed from the state insurance fund on account of injuries and death of the employees of such employer, including the reserves so set up;

2. On January first, nineteen hundred and fifteen, and every fifth year thereafter, and at such other times as the commission, in its discretion, may determine, a readjustment of the rate shall be made for each of the several groups of employment or industries and of each hazard class therein, which, in the judgment of the commission, shall have developed an average loss ratio, in accordance with the experience of the commission in the administration of the law as shown by the accounts kept as provided herein;

3. If any such accounting show an aggregate balance (deemed by the commission to be safely and properly divisible *) remaining to the credit of any class of employment or industry, after the amount required shall have been credited to the surplus and reserve funds and after the payment of all awards for injury or death lawfully chargeable against the same, the commission may in its discretion credit to each individual member of such group, who shall have been a subscriber to the state insurance fund for a period of six months or more prior to the time of such readjustment, and whose premium or premiums exceed the amount of the disbursements from the fund on account of injuries or death of his employees during such period, on the instalment or instalments of premiums next due from him such proportion of such balance as the amount of his prior paid premiums sustains to the whole amount of such premiums paid by the group to which he belongs since the last readjustment of rates;

4. If the amount of premiums collected from any employer at the beginning of any period of six months is ascertained and calculated by using the estimated expenditure of wages for the period of time covered by such premium

* Word "devisable" in L. 1913, ch. 816, replaced here by word "divisible."

payment as a basis, an adjustment of the amount of such premium shall be made at the end of such six months, and the actual amount of such premium shall be determined in accordance with the amount of the actual expenditure of wages for such period; and, if such wage expenditure for such period is less than the amount on which such estimated premium was collected, such employer shall be entitled to receive a refund from the state insurance fund of the difference between the amount so paid by him and the amount so found to be actually due, or to have the amount of such difference credited on succeeding premium payments, at his option; and if such actual premium, when so ascertained, exceeds in amount a premium so paid by such employer at the beginning of such six months, such employer shall immediately upon being advised of the true amount of such premium due forthwith pay to the treasurer of the state an amount equal to the difference between the amount actually found to be due and the amount paid by him at the beginning of such six months' period.

§ 98. Time of payment of premiums.— Except as otherwise provided in this chapter, all premiums shall be paid by every employer into the state insurance fund on or before July first, nineteen hundred and fourteen, and semi-annually thereafter, or at such other time or times as may be prescribed by the commission. The commission shall mail a receipt for the same to the employer and place the same to the credit of the state insurance fund in the custody of the state treasurer.

§ 99. Action for collection in case of default.— If an employer shall default in any payment required to be made by him to the state insurance fund, the amount due from him shall be collected by civil action against him in the name of the people of the state of New York, and it shall be the duty of the commission on the first Monday of each month after July first, nineteen hundred and fourteen, to certify to the attorney-general of the state the names and residences, or places of business, of all employers known to the commission to be in default for such payment or payments for a longer period than five days and the amount due from such employer, and it shall then be the duty of the attorney-general forthwith to bring or cause to be brought against each such employer a civil action in the proper court for the collection of such amount so due, and the same when collected, shall be paid into the state insurance fund, and such employer's compliance with the provisions of this chapter requiring payments to be made to the state insurance fund shall date from the time of the payment of said money so collected as aforesaid to the state treasurer for credit to the state insurance fund.

§ 100. Withdrawal from fund.— Any employer may, upon complying with subdivision two or three of section fifty of this chapter, withdraw from the fund by turning in his insurance contract for cancellation, provided he is not in arrears for premiums due the fund and has given to the commission written notice of his intention to withdraw within thirty days before the expiration of the period for which he has elected to insure in the fund; provided that in case any employer so withdraws, his liability to assessments shall, notwithstanding such withdrawal, continue for one year after the date of such withdrawal as against all liabilities for such compensation accruing prior to such withdrawal.

§ 101. **Audit of payrolls.**—Every employer who is insured in the state insurance fund shall keep a true and accurate record of the number of his employees and the wages paid by him, and shall furnish to the commission, upon demand, a sworn statement of the same. Such record shall be open to inspection at any time and as often as the commission shall require to verify the number of employees and the amount of the payroll.

§ 102. **Falsification of payroll.**—An employer who shall wilfully misrepresent the amount of the payroll upon which the premiums chargeable by the state insurance fund is to be based shall be liable to the state in ten times the amount of the difference between the premiums paid and the amount the employer should have paid had his payroll been correctly computed and the liability to the state under this section shall be enforced in a civil action in the name of the state insurance fund, and any amount so collected shall become a part of such fund.

§ 103. **Wilful misrepresentation.**—Any person who wilfully misrepresents any fact in order to obtain insurance in the state insurance fund at less than the proper rate for such insurance, or in order to obtain payment out of such fund, shall be guilty of a misdemeanor.

§ 104. **Inspections.**—The commission shall have the right to inspect the plants and establishments of employers insured in the state insurance fund; and the inspectors designated by the commission shall have free access to such premises during regular working hours.

§ 105. **Disclosures prohibited.**—Information acquired by the commission or its officers or employees from employers or employees pursuant to this chapter shall not be opened to public inspection, and any officer or employee of the commission who, without authority of the commission or pursuant to its rules or as otherwise required by law shall disclose the same shall be guilty of a misdemeanor.

ARTICLE 6

MISCELLANEOUS PROVISIONS

Section 110. Penalties applicable to expense of commission.

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§ 110. **Penalties applicable to expenses of commission.**—All penalties imposed by this chapter shall be applicable to the expenses of the commission. When collected by the commission such penalties shall be paid into the state treasury and be thereafter appropriated by the legislature for the purposes prescribed by this section.

§ 111. **Record and report of injuries by employers.**—Every employer shall keep a record of all injuries, fatal or otherwise, received by his employees in

the course of their employment. Within ten days after the occurrence of an accident resulting in personal injury a report thereof shall be made in writing by the employer to the commission upon blanks to be procured from the commission for that purpose. Such report shall state the name and nature of the business of the employer, the location of his establishment or place of work, the name, address and occupation of the injured employee, the time, nature and cause of the injury and such other information as may be required by the commission. An employer who refuses or neglects to make a report as required by this section shall be guilty of a misdemeanor, punishable by a fine of not more than five hundred dollars.

Compare sections 20-a, 87 and 126 of the Labor Law, pp. 22, 72, '96, *ante*.

§ 112. Information to be furnished by employer.—Every employer shall furnish the commission, upon request, any information required by it to carry out the provisions of this chapter. The commission, a commissioner, deputy commissioner, or any person deputed by the commission for that purpose, may examine under oath any employer, officer, agent or employee. An employer or an employee receiving from the commission a blank with directions to file the same shall cause the same to be properly filled out so as to answer fully and correctly all questions therein, or if unable to do so, shall give good and sufficient reasons for such failure. Answers to such questions shall be verified under oath and returned to the commission within the period fixed by the commission therefor.

§ 113. Inspection of records of employers.—All books, records and payrolls of the employers showing or reflecting in any way upon the amount of wage expenditures of such employers shall always be open for inspection by the commission or any of its authorized auditors, accountants or inspectors for the purpose of ascertaining the correctness of the wage expenditure and number of men employed and such other information as may be necessary for the uses and purposes of the commission in the administration of this chapter.

§ 114. Interstate commerce.—The provisions of this chapter shall apply to employers and employees engaged in intrastate, and also in interstate or foreign commerce, for whom a rule of liability or method of compensation has been or may be established by the congress of the United States, only to the extent that their mutual connection with intrastate work may and shall be clearly separable and distinguishable from interstate or foreign commerce, except that such employer and his employees working only in this state may, subject to the approval and in the manner provided by the commission and so far as not forbidden by any act of congress, accept and become bound by the provisions of this chapter in like manner and with the same effect in all respects as provided herein for other employers and their employees.

§ 115. Penalties for false representation.—If for the purpose of obtaining any benefit or payment under the provisions of this chapter, either for himself or any other person, any person wilfully makes a false statement or representation, he shall be guilty of a misdemeanor.

§ 116. Limitation of time.—No limitation of time provided in this chapter shall run as against any person who is mentally incompetent or a minor dependent so long as he has no committee, guardian or next friend.

§ 117. Duties of commissioner of labor.—The commissioner of labor shall render to the commission any proper aid and assistance by the department of labor as in his judgment does not interfere with the proper conduct of such department.

§ 118. Unconstitutional provisions.—If any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, the same shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 119. Actions or causes of action pending.—This act shall not affect any action pending or cause of action existing or which accrued prior to July first, nineteen hundred and fourteen.

ARTICLE 7

LAWS REPEALED; WHEN TO TAKE EFFECT

Section 130. Laws repealed.

131. When to take effect.

§ 130. Laws repealed.—Article fourteen-a and sections two hundred and fifteen to two hundred and nineteen-g, both inclusive, of chapter thirty-six of the laws of nineteen hundred and nine, as amended * by chapter six hundred and seventy-four of the laws of nineteen hundred and ten, are hereby repealed.

§ 131. When to take effect.—This chapter shall take effect immediately†, provided that the application of this chapter as between employers and employees and the payment of compensation for injuries to employees or their dependents, in case of death, shall take effect July first, nineteen hundred and fourteen, but payments into the state insurance fund may be made prior to July first, nineteen hundred and fourteen.

§ 2. This act shall take effect immediately, except as provided in section one hundred and thirty-one as re-enacted hereby.

* Should read "added."

† L. 1913, ch. 816, has words "January first, nineteen hundred and fourteen" instead of word "immediately."

II. MISCELLANEOUS LAWS RELATING TO LABOR

[*251]

CHILD LABOR

[The employment of children during the school sessions is regulated by Article 23 of the Education Law, printed below. The Education Law also provides for their vocational training; see Industrial Education, p. 315.]

The employment of children in factories is regulated by Article 6, in mines and quarries by Article 9, in stores, hotels, offices, etc., by Article 12, and in the selling of newspapers by Article 15 of the Labor Law, *ante*. Special service of public employment offices for juveniles is required by § 66-j of the Labor Law, p. 42, *ante*.

Article 44 of the Penal Law (§§ 480-494), entitled "Children," contains provisions relative to the employment of children in occupations dangerous to health or morals. Certain of these sections are printed below, pp. 260-262. See further, § 1982 of the Penal Law, p. 307, *post*, prohibiting the employment of minors under 18 as telegraph operators on railroads; and the Liquor Tax Law, § 21, forbidding persons under 21 to traffic in liquors, and § 30-f, forbidding girls and minors under 18 to sell or serve liquors.

As to registration of births, from which evidence of a child's attainment of the legal age of employment is derived, see Public Health Law, § 382.]

EDUCATIONAL RESTRICTIONS

COMPULSORY EDUCATION LAW: ARTICLE 23 OF CHAPTER 16 OF THE CONSOLIDATED LAWS

[Enacted by ch. 140 of Laws of 1910, amending ch. 16 of the Consolidated Laws of 1909]

§ 620. Instruction required.—The instruction required under this article shall be:

1. At a public school in which at least the six common school branches of reading, writing, arithmetic, English language and geography are taught in English.

2. Elsewhere than a public school upon instruction in the same subjects taught in English by a competent teacher.

§ 621. Required attendance upon instruction.—1. Every child within the compulsory school ages, in proper physical and mental condition to attend school, residing in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall regularly attend upon instruction as follows:

(a) Each child between seven and fourteen years of age shall attend the entire time during which the school attended is in session, which period shall not be less than one hundred and sixty days of actual school.

(b) Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service, and to whom an employment certificate has not been duly issued under the provisions of the labor law, shall so attend the entire time during which the school attended is in session.

2. Every such child, residing elsewhere than in a city or school district having a population of five thousand or more and employing a superintendent of schools, shall attend upon instruction during the entire time that the school in the district shall be in session as follows:

(a) Each child between eight and fourteen years of age.

(b) Each child between fourteen and sixteen years of age not regularly and lawfully engaged in any useful employment or service. [*Subd. 2 am'd by L. 1913, ch. 511.*]

3. The provisions of this section are intended to include all blind children, except such as may receive appointments under the provisions of article thirty-eight of this chapter. [*Subd. 3 added by L. 1912, ch. 710.*]

§ 622. When a boy is required to attend evening school.—1. Every boy between fourteen and sixteen years of age, in a city of the first class or a city of the second class in possession of an employment certificate duly issued under the provisions of the labor law, who has not completed such course of study as is required for graduation from the elementary public schools of such city, and who does not hold either a certificate of graduation from the public elementary school or the pre-academic certificate issued by the regents or the certificate of the completion of an elementary course issued by the education department, shall attend the public evening schools of such city, or other evening schools offering an equivalent course of instruction, for not less than six hours each week, for a period of not less than sixteen weeks. [*Subd. 1 am'd by L. 1913, ch. 748.*]

2. When the board of education in a city or district shall have established part-time and continuation schools or courses of instruction for the education of young persons between fourteen and sixteen years of age who are regularly employed in such city or district, said board of education may require the attendance in such schools or on such courses of instruction of any young person in such a city or district who is in possession of an employment certificate duly issued under the provisions of the labor law, who has not completed such courses of study as are required for graduation from the elementary public schools of such city or district, or equivalent courses of study in parochial or other elementary schools, who does not hold either a certificate of graduation from the public elementary school or a pre-academic certificate of the completion of the elementary course issued by the education department, and who is not otherwise receiving instruction approved by the board of education as equivalent to that provided for in the schools and courses of instruction established under the provisions of this act. The required attendance provided for in this paragraph shall be for a total of not less than thirty-six weeks per year, at the rate of not less than four and not more than eight hours per week, and shall be between the hours of eight o'clock in the morning and five o'clock in the afternoon of any working day or days. [*Subd. 2 added by L. 1913, ch. 748.*]

3. The children attending such part-time or continuation schools as required in paragraph two of this section shall be exempt from the attendance on evening schools required in paragraph one of this section. [*Subd. 3 added by L. 1913, ch. 748.*]

§ 623. Instruction elsewhere than at a public school.—If any such child shall so attend upon instruction elsewhere than at a public school, such instruction shall be at least substantially equivalent to the instruction given children of like age at the public school of the city or district in which such child resides; and such attendance shall be for at least as many hours each day thereof as are required of children of like age at public schools; and no

greater total amount of holidays or vacations shall be deducted from such attendance during the period such attendance is required than is allowed in such public school to children of like age. Occasional absences from such attendance, not amounting to irregular attendance in the fair meaning of the term, shall be allowed upon such excuses only as would be allowed in like cases by the general rules and practice of such public school.

§ 624. Duties of persons in parental relation to children.—Every person in parental relation to a child within the compulsory school ages and in proper physical and mental condition to attend school, shall cause such child to attend upon instruction, as follows:

1. In cities and school districts having a population of five thousand or above, every child between seven and sixteen years of age as required by section six hundred and twenty-one of this act unless an employment certificate shall have been duly issued to such child under the provisions of the labor law and he is regularly employed thereunder.

2. Elsewhere than in a city or school district having a population of five thousand or above, every child between eight and sixteen years of age, unless such child shall have received an employment certificate duly issued under the provisions of the labor law and is regularly employed thereunder in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, or unless such child shall have received the school record certificate issued under section six hundred and thirty of this act and is regularly employed elsewhere than in the factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages.

§ 625. Penalty for failure to perform parental duty.—A violation of section six hundred and twenty-four shall be a misdemeanor, punishable for the first offense by a fine not exceeding five dollars, or five days' imprisonment, and for each subsequent offense by a fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. Courts of special session and police magistrates shall, subject to removal as provided in sections fifty-seven and fifty-eight of the Code of Criminal Procedure, have exclusive jurisdiction in the first instance to hear, try and determine charges of violations of this section within their respective jurisdictions.

§ 626. Unlawful employment of children and penalty therefor.—It shall be unlawful for any person, firm or corporation:

1. To *employ any child under fourteen years of age, in any business or service whatever, for any part of the term during which the public schools of the district or city in which the child resides are in session.

2. To employ, elsewhere than in a city of the first class or a city of the second class, in a factory or mercantile establishment, business or telegraph office, restaurant, hotel, apartment house or in the distribution or transmission of merchandise or messages, any child between fourteen and sixteen years of age who does not at the time of such employment present an employment certificate duly issued under the provisions of the labor law,

* So in original.

or to employ any such child in any other capacity who does not at the time of such employment present a school record certificate as provided in section six hundred and thirty of this chapter.

3. To employ any child between fourteen and sixteen years of age in a city of the first class or a city of the second class who does not, at the time of such employment, present an employment certificate, duly issued under the provisions of the labor law.

§ 627. Employer must display record certificate and evening part-time or continuation school certificate.—The employer of any child between fourteen and sixteen years of age in a city or district shall keep and shall display in the place where such child is employed, the employment certificate and also his evening, part-time or continuation school certificate issued by the school authorities of said city or district or by an authorized representative of such school authorities, certifying that the said child is regularly in attendance at an evening, part-time or continuation school of said city as provided in section six hundred and thirty-one of this chapter. [*As am'd by L. 1913, ch. 748.*]

§ 628. Punishment for unlawful employment of children.—Any person, firm, or corporation, or any officer, manager, superintendent or employee acting therefor, who shall employ any child contrary to the provisions of sections six hundred and twenty-six and six hundred and twenty-seven hereof shall be guilty of a misdemeanor, and the punishment therefor shall be for the first offense a fine of not less than twenty dollars nor more than fifty dollars; for a second and each subsequent offense, a fine of not less than fifty dollars nor more than two hundred dollars. [*As am'd by L. 1913, ch. 748.*]

Constitutionality affirmed in *City of New York v. Chelsea Jute Mills*, 43 Misc. 266.

§ 629. Teachers must keep record of attendance.—An accurate record of the attendance of all children between seven and sixteen years of age shall be kept by the teacher of every school, showing each day by the year, month, day of the month and day of the week, such attendance, and the number of hours in each day thereof; and each teacher upon whose instruction any such child shall attend elsewhere than at school, shall keep a like record of such attendance. Such record shall, at all times, be open to the attendance officers or other person duly authorized by the school authorities of the city or district, who may inspect or copy the same; and every such teacher shall fully answer all inquiries lawfully made by such authorities, inspectors, or other persons, and a wilful neglect or refusal so to answer any such inquiry shall be a misdemeanor.

§ 630. School record certificate.—1. A school-record certificate shall contain a statement certifying that a child has regularly attended the public schools, or schools equivalent thereto, or parochial schools, for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday or during the twelve months next preceding his application for such school record, and that he is able to read and write simple sentences in the English language and has received during such period instruction in reading, writing, spelling, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions, and has completed the work prescribed for the first six years of the public

elementary school, or school equivalent thereto, or parochial school, from which such school record is issued. Such record shall also give the date of birth and residence of the child, as shown on the school records, and the name of the child's parents, guardian or custodian. [*Subd. 1 am'd by L. 1913, ch. 101.*]

2. A teacher or superintendent to whom application shall be made for a school record certificate required under the provisions of the labor law shall issue a school record certificate to any child who, after due investigation and examination, may be found to be entitled to the same as follows:

- a. In a city of the first class by the principal or chief executive of a school.
- b. In all other cities and in school districts having a population of five thousand or more and employing a superintendent of schools, by the superintendent of schools only.
- c. In all other school districts by the principal teacher of the school.
- d. In each city or school district such certificate shall be furnished on demand to a child entitled thereto or to the Board or Commissioner of Health.

§ 631. Evening, part-time or continuation school certificate.—The school authorities in a city or district, or officers designated by them, are hereby required to issue to each child lawfully in attendance at an evening, part-time or continuation school, an evening, part-time or continuation school certificate at least once in each month during the months said evening, part-time or continuation school is in session and at the close of the term of said evening, part-time or continuation school, provided that said child has been in attendance upon said evening school, for not less than six hours each week or upon said part-time or continuation school for not less than four hours each week, for such number of weeks as will, when taken in connection with the number of weeks such evening, part-time or continuation school respectively, shall be in session during the remainder of the current or calendar year, make up a total attendance on the part of said child in said evening school, of not less than six hours per week for a period of not less than sixteen weeks or in said part-time or continuation school, of not less than four hours per week for a period of not less than thirty-six weeks. Such certificate shall state fully the period of time which the child to whom it is issued was in attendance upon such evening, part-time or continuation school. [*As am'd by L. 1913, ch. 748.*]

§ 632. Attendance officers.—1. The school authorities of each city, union free school district, or common school district whose limits include in whole or in part an incorporated village, shall appoint and may remove at pleasure one or more attendance officers of such city or district, and shall fix their compensation and may prescribe their duties not inconsistent with this article and make rules and regulations for the performance thereof; and the superintendent of schools shall supervise the enforcement of this article within such city or school district.

2. The town board of each town shall appoint, subject to the written approval of the school commissioner of the district, one or more attendance officers, whose jurisdiction shall extend over all school districts in said town, and which are not by this section otherwise provided for, and shall fix their compensation, which shall be a town charge; and such attendance officers,

appointed by said board, shall be removable at the pleasure of the school commissioner in whose commissioner district such town is situated.

§ 633. Arrest of truants.—1. The attendance officer may arrest without a warrant any child between seven and sixteen years of age who is a truant from instruction upon which he is lawfully required to attend within the city or district of such attendance officer. He shall forthwith deliver the child so arrested to a teacher from whom such child is then a truant, or, in case of habitual and incorrigible truants, shall bring them before a police magistrate for commitment to a truant school as provided in section six hundred and thirty-five.

2. The attendance officer shall promptly report such arrest and the disposition which he makes of such child, to the school authorities of the said city or district where such child is lawfully required to attend upon instruction.

3. A truant officer in the performance of his duties may enter, during business hours, any factory, mercantile or other establishment within the city or school district in which he is appointed and shall be entitled to examine employment certificates or registry of children employed therein on demand.

§ 634. Interference with attendance officer.—Any person interfering with an attendance officer in the lawful discharge of his duties and any person owning or operating a factory, mercantile or other establishment who shall refuse on demand to exhibit to such attendance officer the registry of the children employed or the employment certificate of such children shall be guilty of a misdemeanor.

§ 635. Truant schools.—1. The school authorities of any city or school district may establish schools, or set apart separate rooms in public school buildings, for children between seven and sixteen years of age, who are habitual truants from instruction upon which they are lawfully required to attend, or who are insubordinate or disorderly during their attendance upon such instruction, or irregular in such attendance. Such school or room shall be known as a truant school; but no person convicted of crimes or misdemeanors, other than truancy, shall be committed thereto.

2. School authorities may provide for the confinement, maintenance and instruction of such truants in such schools; and they, or the superintendent of schools in any city or school district, may, after reasonable notice to such child and the persons in parental relation to such child, and an opportunity for them to be heard, and with the consent in writing of the persons in parental relation to such child, order such child to attend such school, or to be confined and maintained therein, under such rules and regulations as such authorities may prescribe, for a period not exceeding two years; but in no case shall a child be so confined after he is sixteen years of age.

3. Such authorities may order such a child to be confined and maintained during such period in any private school, orphans' home or similar institution controlled by persons of the same religious faith as the persons in parental relation to such child, and which is willing and able to receive, confine and

maintain such child, upon such terms as to compensation as may be agreed upon between such authorities and such private school, orphans' home or similar institution.

4. If the person in parental relation to such child shall not consent to either of such orders said person shall be proceeded against in court under section six hundred and twenty-five of this chapter by the school authorities or such officer as they may designate. In case the person in parental relation to such child establishes to the satisfaction of the court that such child is beyond his control such child shall be proceeded against as a disorderly person, and upon conviction thereof, if the child was lawfully required to attend a public school, the child shall be sentenced to be confined and maintained in such truant school for a period not exceeding two years; or if such child was lawfully required to attend upon instruction otherwise than at a public school, the child may be sentenced to be confined and maintained for a period not exceeding two years in such private school, orphans' home or other similar institutions, if there be one, controlled by persons of the same religious faith as the persons in parental relation to such child, which is willing and able to receive, confine and maintain such child for a reasonable compensation. Such confinement shall be conducted with a view to the improvement and to the restoration, as soon as practicable, of such child to the institution elsewhere, upon which he may be lawfully required to attend.

5. The authorities committing any such child, and in cities and districts having a superintendent of schools such superintendent shall have authority, in his discretion, to parole at any time any truant so committed by them.

6. Every child lawfully suspended from attendance upon instruction for more than one week, shall be required to attend such truant school during the period of such suspension.

7. The school authorities of any city or school district, not having a truant school, may contract with any other city or district having a truant school, for the confinement, maintenance and instruction therein of children whom such school authorities might require to attend a truant school, if there were one in their own city or district.

8. Industrial training shall be furnished in every such truant school.

9. The expense attending the commitment and cost of maintenance of any truant residing in any city, or district, employing a superintendent of schools shall be a charge against such city, or district, and in all other cases shall be a county charge.

§ 636. Enforcement of law and withholding the state moneys by commissioner of education.—1. The commissioner of education shall supervise the enforcement of this law and he may withhold one-half of all public school moneys from any city or district, which, in his judgment, wilfully omits and refuses to enforce the provisions of this article, after due notice, so often and so long as such wilful omission and refusal shall, in his judgment, continue.

2. If the provisions of this article are complied with at any time within one year from the date on which said moneys were withheld, the moneys so withheld shall be paid over by said commissioner of education to such district or city, otherwise forfeited to the state.

CERTAIN EMPLOYMENTS OF CHILDREN PROHIBITED**PENAL LAW, CHAPTER 40 OF CONSOLIDATED LAWS**

§ 483. Endangering life or health of child.—A person who:

1. Wilfully causes or permits the life or limb of any child actually or apparently under the age of sixteen years to be endangered, or its health to be injured, or its morals to become depraved; or,

2. Wilfully causes or permits such child to be placed in such a situation or to engage in such an occupation that its life or limb is endangered, or its health is likely to be injured, or its morals likely to be impaired,

Is guilty of a misdemeanor.

[Subd. 3. Contributing to juvenile delinquency. Repealed by L. 1910, ch. 699. § 494, relative to the same subject, added by L. 1910, ch. 699.]

§ 485. Certain employment of children prohibited.—A person who employs or causes to be employed, or who exhibits, uses, or has in custody, or trains for the purpose of the exhibition, use or employment of, any child actually or apparently under the age of sixteen years; or who having the care, custody or control of such a child as parent, relative, guardian, employer or otherwise, sells, lets out, gives away, so trains, or in any way procures or consents to the employment, or to such training, or use, or exhibition of such child; or who neglects or refuses to restrain such child from such training, or from engaging or acting:

1. As a rope or wire walker, gymnast, wrestler, contortionist, rider or acrobat; or upon any bicycle or similar mechanical vehicle or contrivance; or,

2. In begging or receiving or soliciting alms in any manner or under any pretense, or in any mendicant occupation; or in gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or in peddling; or,

3. In singing; or dancing; or playing upon a musical instrument; or in a theatrical exhibition; or in any wandering occupation; or,

4. In any illegal, indecent or immoral exhibition or practice; or in the exhibition of any such child when insane, idiotic, or when presenting the appearance of any deformity or unnatural physical formation or development; or,

5. In any practice or exhibition or place dangerous or injurious to the life, limb, health or morals of the child.

Is guilty of a misdemeanor.

But this section does not apply to the employment of any child as a singer or musician in a church, school or academy; or in teaching or learning the science or practice of music; or as a musician in any concert or in a theatrical exhibition, with the written consent of the mayor of the city, or the president of the board of trustees of the village where such concert or exhibition takes place. Such consent shall not be given unless forty-eight hours previous notice of the application shall have been served in writing upon the society mentioned in section four hundred and ninety-one of this chapter, if there be one within the county, and a hearing had thereon if requested, and shall be revocable at the will of the authority giving it. It shall specify the name of the child, its age, the names and residence of its parents or guardians, the nature, time, duration and number of performances permitted, together with the place and

character of the exhibition. But no such consent shall be deemed to authorize any violation of the first, second, fourth or fifth subdivisions of this section.

Not an unconstitutional infringement of the parents' rights or the rights of the child 8 N.Y. Cr. 383; *People v. Ewer*, 141 N. Y. 129.

§ 486. Prohibited acts; destitute children.—Any child actually or apparently under the age of sixteen years who is found:

1. Begging or receiving or soliciting alms, in any manner or under any pretense; or gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or,

* * * * *

5. Coming within any of the descriptions of children mentioned in section four hundred and eighty-five,

Must be arrested and brought before a proper court or magistrate, who may commit the child to any incorporated charitable reformatory, or other institution, and when practicable, to such as is governed by persons of the same religious faith as the parents of the child, or may make any disposition of the child such as now is, or hereafter may be authorized in the cases of vagrants, truants, paupers or disorderly persons, but such commitment shall, so far as practicable, be made to such charitable or reformatory institutions.

If it shall appear to the board of managers, trustees or other officers in charge of said incorporated charitable, reformatory or other institution to which any such child has been so committed that said child be incorrigible and that his or her presence therein is seriously detrimental to the welfare of the institution and other children therein, an application may be made to the court or magistrate who committed the said child to said institution, or to a justice of the supreme court in the judicial district in which said institution is located, for an order transferring said child to another incorporated charitable, reformatory or other institution, governed or controlled by persons of the same religious faith as the parents of the said child, when practicable, said institution or reformatory to be one designated by the state board of charities for the receipt and detention of such incorrigible children. Such application shall be by petition signed by the officer or the person in charge of such institution and shall state the causes for seeking such transfer, and due notice of such application with a copy of the petition shall be served personally or by mail at least eight days before the hearing, on the parents or guardian of said child and the officer of the locality would be chargeable for the support of such child so transferred, and upon the hearing of said petition such court, magistrate or justice may grant such order of transfer if it appears to his satisfaction that the facts alleged are true and that such transfer should be made; and any child so transferred shall be confined in such institution to which such transfer shall be made with the same force and effect as the confinement in the institution in the first instance and under the same terms and conditions. [*Subd. 5 am'd by L. 1912, ch. 169.*]

§ 488. Sending messenger boys to certain places.—A corporation or person employing messenger boys who:

1. Knowingly places or permits to remain in a disorderly house, or in an unlicensed saloon, inn, tavern or other unlicensed place where malt or spiri-

tuous liquors or wines are sold, any instrument or device by which communication may be had between such disorderly house, saloon, inn, tavern or unlicensed place, and any office or place of business of such corporation or person; or,

2. Knowingly sends or permits any person to send any messenger boy to any disorderly house, unlicensed saloon, inn, tavern, or other unlicensed place, where malt or spirituous liquors or wines are sold, on any errand or business whatsoever except to deliver telegrams at the door of such house,

Is guilty of a misdemeanor, and incurs a penalty of fifty dollars to be recovered by the district attorney.

Compare § 161-a of the Labor Law, p. 116, *ante*. Section 1141, subd. 3, of the Penal Law prohibits the hiring, employing, using or permitting of any minor or child to sell or distribute obscene prints and articles.

TAKING APPRENTICE WITHOUT GUARDIAN'S CONSENT

§ 493. Taking apprentice without consent of guardian.—A person who takes an apprentice without having first obtained the consent of his legal guardian or unless a written agreement has been entered into as prescribed by law, is guilty of a misdemeanor.

For the law regulating apprenticeship, see p. 315, *post*.

PAYMENT OF WAGES TO MINORS

THE DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS

§ 72. Payment of wages to minor; when valid.—Where a minor is in the employment of a person other than his parent or guardian, payment to such minor of his wages is valid, unless such parent or guardian notify the employer in writing, within thirty days after the commencement of such service, that such wages are claimed by such parent or guardian, but whenever such notice is given at any time payments to the minor shall not be valid for services rendered thereafter.

HOURS OF LABOR*

DRUG CLERKS

PUBLIC HEALTH LAW, CHAPTER 45 OF THE CONSOLIDATED LAWS

§ 236. Working hours and sleeping apartments.— No apprentice or employee in any pharmacy or drug store shall be required or permitted to work more than seventy hours a week. Nothing in this section prohibits working six hours overtime any week for the purpose of making a shorter succeeding week, provided, however, that the aggregate number of hours in any such two weeks shall not exceed one hundred and thirty-two hours. The hours shall be so arranged that an employee shall be entitled to and shall receive at least one afternoon and evening off in each week and in addition thereto shall receive one full day off in two consecutive weeks. No proprietor of any pharmacy or drug store shall require any clerk to sleep in any room or apartment in or connected with such store that does not comply with the sanitary regulations of the local board of health. The provisions of this section alone regulate working hours and sleeping apartments in pharmacies or drug stores. [*As am'd by L. 1910, ch. 422; L. 1911, ch. 630; and L. 1914, ch. 514.*]

The section excludes the operation of the "Day of Rest Law" (Labor Law, § 8-a) and other statutes. It applies to all drug store employees, including clerks at soda fountains and cigar stands: Opinion of Attorney-General, May 5, 1914. An exception might occur relative to a "superintendent or foreman in charge": Opinion of Attorney-General, March 28, 1914.

§ 240. Revocation of license; misdemeanors; violations and penalties.—

The wilful and repeated violation of any of the provisions of this article or the rules is sufficient cause for the revocation of a license or certificate. The license or certificate revoked shall on formal notice be delivered immediately to the board.

Misdemeanors. It is a misdemeanor for

9. Any proprietor of a pharmacy or drug store to require more than seventy working hours a week in other arrangement than that permitted by section two hundred and thirty-six; and for any proprietor of a pharmacy or drug store to violate the provisions of the same section in regard to sleeping apartments. [*Subd. 9 am'd by L. 1910, ch. 422; L. 1911, ch. 630; and L. 1915, ch. 502.*]

GROCERY CLERKS IN CITIES OF THE FIRST CLASS

PUBLIC HEALTH LAW, CHAPTER 45 OF THE CONSOLIDATED LAWS

§ 236-a. Working hours for male employees over the age of sixteen years, and sleeping apartments in grocery or provision stores.— No male apprentice or employee over the age of sixteen years in any grocery or provision store located or lying within the boundaries of any city of the first class shall be permitted to work more than seventy hours a week or more than eleven hours in any one day, except that on the last day of the week

* Most of the legal restrictions upon the hours of labor are to be found in the Labor Law, articles 1, 6, 8 and 12, *ante*. See also pp. 281, 291, *post*.

such employees may be permitted to work fifteen hours for the purpose of eliminating work on the first day of the week. Nothing herein shall be so construed as to require male apprentices or employees over the age of sixteen years in grocery or provision stores to work on seven days in the week. The work hours shall be consecutive, allowing one hour for each meal. Nothing herein shall be so construed as to affect minors under the age of sixteen years or females of any age, or in any way to repeal or modify chapter three hundred and thirty-one of the laws of nineteen hundred and fourteen. No proprietor of any grocery or provision store located within the boundaries of any city of the first class shall permit any clerk to sleep in any room or apartment in or connected with such store which does not comply with the sanitary regulations of the local board of health, providing, however, that this act shall not effect any proprietor or the family of such proprietor who reside in an apartment connected with such store, which apartment at the time of its building or erection was in conformity with the sanitary regulations of the local board of health. Failure to comply with any of the provisions of this section shall be deemed a misdemeanor. [Added by L. 1915, ch. 343.]

PUBLIC HOLIDAYS

GENERAL CONSTRUCTION LAW, CHAPTER 22 OF THE CONSOLIDATED LAWS

§ 24. **Holidays; half-holiday.**—The term holiday includes the following days in each year: The first day of January, known as New Year's day; the twelfth day of February, known as Lincoln's birthday; the twenty-second day of February, known as Washington's birthday; the thirtieth day of May, known as Memorial day; the fourth day of July, known as Independence day; the first Monday of September, known as Labor day; the twelfth day of October, known as Columbus day, and the twenty-fifth day of December, known as Christmas day, and if either of such days is Sunday, the next day thereafter; each general election day and each day appointed by the president of the United States or by the governor of this state as a day of general thanksgiving, general fasting and prayer, or other general religious observances. The term half-holiday includes the period from noon to midnight of each Saturday which is not a holiday. [As am'd by L. 1909, ch. 112.]

SUNDAY LABOR *

ARTICLE 192 OF PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 2143. **Labor prohibited on Sunday.**—All labor on Sunday is prohibited, excepting the works of necessity and charity. In works of necessity or charity is included whatever is needful during the day for the good order, health or comfort of the community.

§ 2144. **Persons observing another day as a Sabbath.**—It is a sufficient defense to a prosecution for work or labor on the first day of the week that the defendant uniformly keeps another day of the week as holy time, and does not labor on that day, and that the labor complained of was done in

* Compare the "one day of rest in seven" law in § 8-a of the Labor Law, p. 15, ante.

such manner as not to interrupt or disturb other persons in observing the first day of the week as holy time.

§ 2146. Trades, manufactures, and mechanical employments prohibited on Sunday.—All trades, manufactures, agricultural or mechanical employments upon the first day of the week are prohibited, except that when the same are works of necessity they may be performed on that day in their usual and orderly manner, so as not to interfere with the repose and religious liberty of the community.

§ 2147. Public traffic on Sunday.—All manner of public selling or offering for sale of any property upon Sunday is prohibited, except as follows:

1. Articles of food may be sold, served, supplied and delivered at any time before ten o'clock in the morning;

2. Meals may be sold to be eaten on the premises where sold at any time of the day;

3. Caterers may serve meals to their patrons at any time of the day;

4. Prepared tobacco, milk, eggs, ice, soda-water, fruit, flowers, confectionery, newspapers, gasoline, oil, tires, drugs, medicines and surgical instruments, may be sold in places other than a room where spirituous or malt liquors or wines are kept or offered for sale and may be delivered at any time of the day. [*Subd. 4 am'd by L. 1915, ch. 278.*]

5. Delicatessen dealers may sell, supply, serve and deliver cooked and prepared foods, between the hours of four o'clock in the afternoon and half past seven o'clock in the evening, in addition to the time provided for in subdivision one hereof.

The provisions of this section, however, shall not be construed to allow or permit the public sale or exposing for sale or delivery of uncooked flesh foods, or meats, fresh or salt, at any hour or time of the day. Delicatessen dealers shall not be considered as caterers within subdivision three hereof. [*Section 2147 am'd and subdivided by L. 1913, ch. 346.*]

The prohibition of the sale of uncooked meat at any hour on Sunday is constitutional: *People ex rel. Woodin v. Hagan*, 36 Misc. 349.

§ 2153. Barbering on Sunday.—Any person who carries on or engages in the business of shaving, hair cutting or other work of a barber on the first day of the week, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five dollars; and upon a second conviction for a like offense shall be fined not less than ten dollars and not more than twenty-five dollars, or be imprisoned in the county jail for a period of not less than ten days, nor more than twenty-five days, or be punishable by both such fine and such imprisonment at the discretion of the court or magistrate; provided, that in the village of Saratoga Springs, from the fifteenth day of June to the fifteenth day of September, inclusive, and in the city of New York throughout the year, barber shops or other places where a barber is engaged in shaving, hair cutting or other work of a barber, may be kept open, and the work of a barber may be performed therein until one o'clock of the afternoon of the first day of the week.

Held to be constitutional: *People v. Haynor*, 149 N. Y. 195 (1896).

VACATIONS OF PUBLIC EMPLOYEES**ARTICLE 4 OF THE PUBLIC OFFICERS LAW, CHAPTER 47 OF THE CONSOLIDATED LAWS**

§ 71. Vacations for employees of the state and the several civil subdivisions thereof.—The executive officers of every public department, bureau, commission, or board of the state and of each county, city or other civil division thereof are authorized and empowered to grant to every employee under their supervision, who shall have been in such employ for at least one year, a vacation of not less than two weeks in each year, and for such further period of time as in the opinion and judgment of the executive officers, the duties, position, length of service and other circumstances may warrant, at such time as the executive officers may fix and during such vacation the said employee shall be allowed the same compensation as if actually employed. [*Added by L. 1910, ch. 680.*]

TITLE 3 OF CHAPTER 23 OF THE GREATER NEW YORK CHARTER

§ 1567. The executive heads of the various departments are authorized and empowered to grant to every employee of the city of New York, or of any department or bureau thereof, and of the department of education, a vacation of not less than two weeks in each year and for such further period of time as the duties, length of service and other qualifications of an employee may warrant, at such time as the executive head of the department or any officer having supervision over said employee may fix, and for such time they shall be allowed the same compensation as if actually employed, except that no such vacation shall be granted to per diem employees for longer than two weeks and only during the months of June, July, August and September. The provision, however, restricting vacation periods to the months of June, July, August and September shall not apply to the department of parks. [*Added by L. 1909, ch. 559; am'd by L. 1910, ch. 679; L. 1913, ch. 121; and L. 1914, ch. 458.*]

The granting of vacations under this section is permissive, not mandatory: *People ex rel. Denery v. Drummond*, in Supreme Court in New York City, Aug., 1910.

DUTIES AND LIABILITIES OF EMPLOYERS AND EMPLOYEES

SECURITY AND PROTECTION OF THE LIVES, HEALTH OR SAFETY OF EMPLOYEES; COMPENSATION FOR INJURIES OR DEATH

ARTICLE I OF THE CONSTITUTION

§ 19. Nothing contained in this constitution shall be construed to limit the power of the legislature to enact laws for the protection of the lives, health, or safety of employees; or for the payment, either by employers, or by employers and employees or otherwise, either directly or through a state or other system of insurance or otherwise, of compensation for injuries to employees or for death of employees resulting from such injuries without regard to fault as a cause thereof, except where the injury is occasioned by the willful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty; or for the adjustment, determination and settlement, with or without trial by jury, of issues which may arise under such legislation; or to provide that the right of such compensation, and the remedy therefor shall be exclusive of all other rights and remedies for injuries to employees or for death resulting from such injuries; or to provide that the amount of such compensation for death shall not exceed a fixed or determinable sum; provided that all moneys paid by an employer to his employees or their legal representatives, by reason of the enactment of any of the laws herein authorized, shall be held to be a proper charge in the cost of operating the business of the employer. [Section 19 adopted Nov. 4, 1913; in effect Jan. 1, 1914.]

LIABILITY OF RAILWAY COMPANIES *

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 64. Injuries to employees.—In all actions against a railroad corporation, foreign or domestic, doing business in this state, or against a receiver thereof, for personal injury to, or death resulting from personal injury of any person, while in the employment of such corporation, or receiver, arising from the negligence of such corporation or receiver or of any of its or his officers or employees, every employee, or his legal representatives, shall have the same rights and remedies for an injury, or for death, suffered by him, from the act or omission of such corporation or receiver or of its or his officers or employees, as are now allowed by law, and, in addition to the liability now existing by law, it shall be held in such actions that persons engaged in the service of any railroad corporation, foreign or domestic, doing business in this state, or in the service of a receiver thereof, who are intrusted by such corporation or receiver, with the authority of superintendence, control or command of other persons in the employment of such corporation or receiver, or with the authority to direct or control any other employee in the performance of the duty of such employee, or who

* For the General Employers' Liability Law, see article 14 of the Labor Law, pp. 128-134, *ante*. See also sections 11, 29 and 53 of the Workmen's Compensation Law, pp. 227, 235, 238, *ante*.

have, as a part of their duty, for the time being, physical control or direction of the movement of a signal, switch, locomotive engine, car, train or telegraph office, are vice-principals of such corporation or receiver, and are not fellow-servants of such injured or deceased employee. If an employee, engaged in the service of any such railroad corporation, or of a receiver thereof, shall receive any injury by reason of any defect in the condition of the ways, works, machinery, plant, tools or implements, or of any car, train, locomotive or attachment thereto belonging, owned or operated, or being run and operated by such corporation or receiver, when such defect could have been discovered by such corporation or receiver, by reasonable and proper care, tests or inspection, such corporation or receiver shall be deemed to have had knowledge of such defect before and at the time such injury is sustained; and when the fact of such defect shall be proved upon the trial of any action in the courts of this state, brought by such employee or his legal representatives, against any such railroad corporation or receiver, on account of such injuries so received, the same shall be prima facie evidence of negligence on the part of such corporation or receiver. This section shall not affect actions or causes of action existing on May twenty-ninth, nineteen hundred and six; and no contract, receipt, rule or regulation between an employee and a railroad corporation or receiver, shall exempt or limit the liability of such corporation or receiver from the provisions of this section.

This section applies to street surface railroads: *Kent v. Jamestown Street Ry. Co.*, 205 N. Y. 861.

The Federal Employers' Liability Act is paramount and exclusive as concerns interstate commerce cases: *Burnett v. Erie R. R. Co.*, 159 App. Div. 712.

DAMAGES FOR INJURIES CAUSING DEATH

ARTICLE I OF THE CONSTITUTION

Section 18. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

CODE OF CIVIL PROCEDURE

§ 1902. * * * The executor or administrator duly appointed in this state, or in any other state, territory or district of the United States, or in any foreign country, of a decedent, who has left, him or her surviving, a husband, wife, or next of kin, may maintain an action to recover damages for a wrongful act, neglect, or default, by which the decedent's death was caused, against a natural person who, or a corporation which, would have been liable to an action in favor of the decedent, by reason thereof, if death had not ensued. Such an action must be commenced within two years after the decedent's death. * * * [*As am'd by L. 1915, ch. 620.*]

CRIMINAL LIABILITY FOR NEGLIGENCE

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1052. Manslaughter in second degree defined. * * *

Negligent use of machinery.—A person who, by any act of negligence or misconduct in a business or employment in which he is engaged, or in the use or management of any machinery, animals, or property of any kind, intrusted to his care, or under his control, or by any unlawful, negligent or

reckless act, not specified by or coming within the foregoing provisions of this article, or the provisions of some other statute, occasions the death of a human being, is guilty of manslaughter in the second degree.

* * * * *

Persons in charge of steamboats.—A person having charge of a steamboat used for the conveyance of passengers, or of a boiler or engine thereof, who, from ignorance, recklessness, or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, or other apparatus in which it is generated or contained, or to break any apparatus or machinery connected therewith, whereby the death of a human being is occasioned, is guilty of manslaughter in the second degree.

Persons in charge of steam engines.—An engineer or other person, having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam, employed in a boat or railway, or in a manufactory, or in any mechanical works, who wilfully, or from ignorance or gross neglect, creates or allows to be created, such an undue quantity of steam as to burst the boiler, engine, or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

§ 1893. Mismanagement of steam boilers.—An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or employing steam, employed in a railway, manufactory, or other mechanical works, who, wilfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

See also §§ 1891, 1892.

EMPLOYEES NOT TO DISPOSE OF MATERIAL FURNISHED

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1310. Conversion of materials furnished to a person for purpose of being manufactured.—Any person who shall wilfully pawn, pledge, sell or convert to his or her own use any material furnished to him or her for the purpose of being manufactured, if the same be of the value of more than twenty-five dollars, shall, upon conviction thereof, be adjudged guilty of grand larceny, and imprisoned in a state prison for a term not exceeding five years, but if the same be of the value of twenty-five dollars or under, he or she shall, upon conviction, be adjudged guilty of petit larceny, and be punished by imprisonment in a county jail not exceeding six months, or by fine not exceeding one hundred dollars, or by both such fine and imprisonment.

Nothing in this section contained shall be deemed or held to discharge any mechanic's lien, or right of lien in favor of any employee as now recognized by law.

CORRUPT INFLUENCING OF AGENTS, EMPLOYEES OR SERVANTS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 439. Corrupt influencing of agents, employees or servants.—Whoever gives, offers or promises to an agent, employee or servant, any gift or gratuity whatever, without the knowledge and consent of the principal, employer or master of such agent, employee or servant, with intent to influence his

action in relation to his principal's, employer's or master's business; or an agent, employee or servant who without the knowledge and consent of his principal, employer or master, requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself, under an agreement or with an understanding that he shall act in any particular manner to his principal's, employer's or master's business; or an agent, employee or servant, who, being authorized to procure materials, supplies or other articles either by purchase or contract for his principal, employer or master, or to employ service or labor for his principal, employer or master, receives directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract, or furnishes such materials, supplies or other articles, or from a person who renders such service or labor; and any person who gives or offers such an agent, employee or servant such commission, discount or bonus shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by such fine and by imprisonment for not more than one year.

Compare "Bribery of labor representatives," p. 337, *post*.

POLITICAL AND LEGAL RIGHTS AND PRIVILEGES OF WORKINGMEN

ALLOWING TIME FOR EMPLOYEES TO VOTE WITHOUT LOSS OF PAY

ELECTION LAW, CHAPTER 17 OF THE CONSOLIDATED LAWS

§ 365. Time allowed employees to vote.—Any person entitled to vote at a general election held within this state, shall on the day of such election be entitled to absent himself from any service or employment in which he is then engaged or employed, for a period of two hours, while the polls of such election are open. If such voter shall notify his employer before the day of such election of such intended absence, and if thereupon two successive hours for such absence shall be designated by the employer, and such absence shall be during such designated hours, or if the employer upon the day of such notice makes no designation, and such absence shall be during any two consecutive hours while such polls are open, no deduction shall be made from the usual salary or wages of such voter, and no other penalty shall be imposed upon him by his employer by reason of such absence. This section shall be deemed to include all employees of municipalities.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 759. Refusal to permit employees to attend election.—A person or corporation who refuses to an employee entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employee to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

TO PREVENT EMPLOYERS FROM COERCING EMPLOYEES IN THEIR EXERCISE OF THE SUFFRAGE

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS.

§ 772. Duress and intimidation of voters.—Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or,

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or,

3. Being an employer pays his employees the salary or wages due in "pay envelopes," upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employees, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employees are engaged in labor, any handbill or placard containing any threat, notice or information, that if any particular ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employees reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees,

Is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.

ATTACHMENT OF TOOLS AND GARNISHMENT OF WAGE

CODE OF CIVIL PROCEDURE (CHAPTER 13, TITLE 2, ARTICLE I)

§ 1390. The following personal property, when owned by a householder is exempt from levy and sale by virtue of an execution, and each movable article thereof continues to be so exempt, while the family, or any of them, are removing from one residence to another:

• • • • •

6. The tools and implements of a mechanic, necessary to the carrying on of his trade, not exceeding in value twenty-five dollars.

§ 1391. In addition to the exemptions, allowed by the last section, necessary household furniture, working tools and team, professional instruments, furniture and library, not exceeding in value two hundred and fifty dollars, together with the necessary food for the team, for ninety days, are exempt from levy and sale by virtue of an execution, when owned by a person, being a householder, or having a family for which he provides, except where the execution is issued upon a judgment, recovered wholly upon one or more demands, either for work performed in the family as a domestic or for the purchase money of one or more articles exempt as prescribed in this or the last section. Where a judgment has been recovered and where an execution issued upon said judgment has been returned wholly or partly unsatisfied,

and where any wages, debts, earnings, salary, income from trust funds or profits are due and owing to the judgment debtor or shall thereafter become due and owing to him, to the amount of twelve dollars or more per week, the judgment creditor may apply to the court in which said judgment was recovered or the court having jurisdiction of the same without notice to the judgment debtor and upon satisfactory proof of such facts by affidavits or otherwise, the court, if a court not of record, a judge or justice thereof, must issue, or if a court of record, a judge or justice, must grant an order directing that an execution issue against the wages, debts, earnings, salary, income from trust funds or profits of said judgment debtor, and on presentation of such execution by the officer to whom delivered for collection to the person or persons from whom such wages, debts, earnings, salary, income from trust funds or profits are due and owing, or may thereafter become due and owing to the judgment debtor, said execution shall become a lien and a continuing levy upon the wages, earnings, debts, salary, income from trust funds or profits, due or to become due to said judgment debtor to the amount specified therein which shall not exceed ten per centum thereof, and said levy shall be a continuing levy until said execution and the expenses thereof are fully satisfied and paid or until modified as hereinafter provided, but only one execution against the wages, debts, earnings, salary, income from trust funds or profits of said judgment debtor shall be satisfied at one time and where more than one execution has been issued or shall be issued pursuant to the provisions of this section against the same judgment debtor, they shall be satisfied in the order of priority in which such executions are presented to the person or persons from whom such wages, debts, earnings, salary, income from trust funds or profits are due and owing. It shall be the duty of any person or corporation, municipal or otherwise, to whom said execution shall be presented, and who shall at such time be indebted to the judgment debtor named in such execution, or who shall become indebted to such judgment debtor in the future, and while said execution shall remain a lien upon said indebtedness to pay over to the officer presenting the same, such amount of such indebtedness as such execution shall prescribe until said execution shall be wholly satisfied and such payment shall be a bar to any action therefor by any such judgment debtor. If such person or corporation, municipal or otherwise, to whom said execution shall be presented shall fail, or refuse to pay over to said officer presenting said execution, the percentage of said indebtedness, he shall be liable to an action therefor by the judgment creditor named in such execution, and the amount so recovered by such judgment creditor shall be applied towards the payment of said execution. Either party may apply at any time to the court from which such execution shall issue, or to any judge or justice issuing the same, or to the county judge of the county, and in any county where there is no county judge, to any justice of the city court upon such notice to the other party as such court, judge, or justice shall direct for a modification of said execution, and upon such hearing the said court, judge or justice may make such modification of said execution as shall be deemed just, and such execution as so modified shall continue in full force and effect until fully paid and satisfied, or until further modified as herein provided. This section, so far as it relates to wages and salary, due and owing or to become due and owing to the judgment debtor, shall not apply to judgments recovered more than ten years prior to September first, nineteen hundred and eight, nor to judgments

heretofore or hereafter recovered upon such judgments, and any execution heretofore issued upon such judgments pursuant to an order heretofore granted under this section shall, when this act takes effect, cease to be a lien and continuing levy upon wages and salary thereafter to become due and owing to the judgment debtor. [*As am'd by L. 1911, chs. 489 and 532; L. 1914, ch. 352.*]

The above section exempts from attachment wages of less than \$12 per week. Execution ceases to be a lien when the judgment debtor's wages are reduced to an amount less than \$12 a week: *Duffy v. Morrissey*, 82 Misc. 149. For reference to a similar case of reduction of wages below \$12, with judgment, however, for plaintiff, see *Keve v. Columbia Kid Hair Curlers Manufacturing Co.*, 159 App. Div. 738; 161 App. Div. 918. Section 1879 of the Code of Civil Procedure also exempts from execution on judgment creditor's action "the earnings of the judgment debtor for his personal services, rendered within sixty days next before the commencement of the action, where it is made to appear, by his oath, or otherwise that those earnings are necessary for the use of a family, wholly or partly supported by his labor."

This section applies to state employees: See section 2-a of the State Finance Law, which provides also for semi-monthly pay for such employees and which was added in 1910, p. 281, *post*. Prior to the addition of this section to the Finance Law, the garnishee law had been held not to apply to state employees: *Osterhoudt v. Stade*, 133 App. Div. 83.

The exclusive remedy for refusal of the Comptroller of New York City to pay upon presentation of an execution against the salary of a municipal employee is a personal action against the Comptroller: *Matter of Pratt*, 158 App. Div. 695.

TAKING SECURITY FOR USURIOUS LOANS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 2400. Taking security upon certain property for usurious loans.—A person who takes security, upon any household furniture, sewing machines, plate or silverware in actual use, tools or implements of trade, wearing apparel or jewelry, for a loan or forbearance of money, or for the use or sale of his personal credit, conditioned upon the payment of a greater rate than six per centum per annum or, who as security for such loan, use or sale of personal credit as aforesaid, makes a pretended purchase of such property from any person, upon the like condition, and permits the pledger to retain the possession thereof is guilty of a misdemeanor.

ASSIGNMENT OF WAGES

[There are two statutes dealing with assignment of wages for loans. One is section 42 of the Personal Property Law which is of general application and is reproduced below. The other is the Banking Law, as re-enacted by L. 1914, ch. 369. Section 2 of the Banking Law defines personal loan companies and brokers; article 9 thereof, as amended by L. 1915, ch. 588, governs them specially; articles 1, 2, 12 and 13 govern them generally. Article 9 is here reproduced in part.]

PERSONAL PROPERTY LAW, CHAPTER 41 OF THE CONSOLIDATED LAWS

§ 42. Regulating loans of money on salaries.—1. Any person or persons, firm, corporation or company, who shall after the passage of this act, make to any employee an advance of money, or loan, on account of salary or wages due or to be earned in the future by such individual, upon an assignment or note covering such loans or advances, shall not acquire any right to collect or attach the same while in the possession or control of the employer, unless such note or assignment is dated on the same day on which such loan is actually made, and unless within a period of three days after such loan and

assignment or note are actually made the party making such loan or loans and taking such assignment or notes shall have filed with the employer or employers of the individual or individuals so assigning his present or prospective salary or wages, a duly authenticated copy of such agreement or assignment or notes under which the claim is made. The day of making a loan or advance within the meaning of this act shall be deemed to be the day when the money is delivered to the borrower, and the subsequent execution of an instrument by virtue of a power of attorney shall not be deemed to affect the time of the actual making of such loan or advance. [Subd. 1 am'd by L. 1911, ch. 626.]

2. No action shall be maintained in any of the courts of this state, brought by the holder of any such contract, assignment or notes, given by an employee for moneys loaned on account of salary or wages, in which it is sought to charge in any manner the employer or employers, unless a copy of such agreement, assignment or notes, together with a notice of lien, was duly filed with the employer or employers of the person making such agreement, assignment or notes, by the person or persons, corporation or company making said loan within three days after the said loan was actually made and the said agreement, assignment or notes were given as provided in the previous section. [Subd. 2 am'd by L. 1911, ch. 626.]

3. Every person, firm or corporation engaged in or seeking to engage in the business of loaning money upon security of an assignment of salary or wages either earned or to be earned shall, on or before the first day of July next ensuing the passage of this act, file with the clerk of the county in which said person, firm or corporation has its place of business or transacts business a statement under oath containing the name and residence of the individual; or in case of a firm, the names and residences of the partners; or in the case of a corporation, the names and residences of the officers and directors, managers or trustees of such corporation; and the place or places where said business is transacted by such an individual, firm or corporation. After July the first next ensuing the passage of this act it shall be unlawful to engage in the business of loaning money in the manner set forth in this act without, prior to engaging in such business, filing a statement as provided in this act. [Subd. 3 added by L. 1911, ch. 626.]

4. The several county clerks of this state shall keep an alphabetical index of all persons, firms or corporations filing certificates provided for herein, and for the indexing and filing of such certificates, they shall receive a fee of twenty-five cents. A copy of such certificate, duly certified to by the county clerk in whose office the same was filed, shall be presumptive evidence in all courts of law in this state of the facts therein contained. [Subd. 4 added by L. 1911, ch. 626.]

5. After the passage of this act, no persons shall directly or indirectly receive or accept for the use and sale of his personal credit or for making any advance or loan of money, either wholly or partly in anticipation of salary or wages due or to be earned, a greater sum than at the rate of eighteen per centum per annum on the amount of such loan or advance, either as a bonus, interest or otherwise, or under the guise of a charge for investigating the status of a person applying for such loan or advance,

drawing of papers or other service in connection with such loan or advance, except such charges as are now permitted by section three hundred and eighty of chapter twenty-five of the laws of nineteen hundred and nine, known as the "general business law." [Subd. 5 added by L. 1911, ch. 626.]

6. Every person, firm, corporation, director, agent, officer or member thereof who shall violate any provision of this act, directly or indirectly, or assent to such violation, shall be guilty of a misdemeanor. [Subd. 6 added by L. 1911, ch. 626.]

See also § 13 of the Labor Law, p. 18. *ante*.

BANKING LAW, CHAPTER 2 OF THE CONSOLIDATED LAWS, AS AMENDED BY L. 1914, CHAPTER 369

§ 344. General powers.—In addition to the powers conferred by the general and stock corporation laws, every personal loan company shall, subject to the restrictions and limitations contained in this article, have the following powers:

* * * * *

3. To make small loans to needy borrowers upon any of the following securities:

* * * * *

(c) Assignments or orders for the payment of salary or wages by the borrower or another person.

* * * * *

[Section 344 re-enacted by L. 1915, ch. 588.]

§ 345. Restrictions on amount of loan, interest and charges.—Every personal loan company shall be subject to the following restrictions upon the making of loans and on charges for services in connection therewith:

1. No loan made under subdivisions two and three of section three hundred and forty-four of this article shall exceed two hundred dollars, nor shall any person owe any such corporation on account of such loan more than two hundred dollars for principal at any one time.

2. Interest shall not be charged or collected in advance and shall be computed on unpaid balances.

3. Interest on loans made as a pawnbroker shall not exceed three per centum per month and no other charge of any kind shall be made by such corporation when acting as pawnbroker.

4. Interest on loans made as provided in subdivision three of section three hundred and forty-four of this article shall not be charged at a rate to exceed two per centum per month.

5. For a loan exceeding fifty dollars a charge of not more than two dollars may be made for expenses, including any examination of the property mortgaged or investigation of the character and circumstances of the borrower, indorser, or surety, and the drawing, taking the acknowledgment, and filing of necessary papers. If the loan is fifty dollars or less, such charge shall not be more than one dollar. No such charge shall be made on any loan or renewal thereof oftener than once in each period of twelve months. No such charge shall be imposed upon any one borrower for any new or additional loan made within three months after any such charge has been imposed, nor shall any charge be imposed upon any one borrower for a loan which is to be repaid

within less than one calendar month after the loan is made, nor shall any charge of any kind be made in addition to interest on a loan of less than ten dollars. No charge whatsoever shall be made unless or until a loan shall have been made as the result of such examination or investigation. [*Subd. 5 am'd by L. 1915, ch. 588.*]

6. No charge other than costs specifically prescribed by law to be included in any judgment shall be made against any borrower by reason of the institution of any action or proceeding to appropriate security to the payment of any loan or of any action to recover of the borrower any sum lent.

§ 346. Restrictions on methods of making and paying loans.—Every personal loan company shall:

1. Deliver to the borrower, at the time a loan is made, a statement in the English language showing in clear and distinct terms the amount of the loan, the date of the loan and of its maturity, the security for the loan, the person to whom the loan is made, the name of the lender and the amount and rate of interest charged. Upon such statement there shall be printed in English a copy of this section and of section three hundred and forty-five of this article. [*Subd. 1 am'd by L. 1915, ch. 588.*]

2. Give to the borrower a plain and complete receipt for all payments made on account of any such loan at the time such payments are made.

3. Upon repayment of the loan in full, mark indelibly in the presence of the borrower every paper signed by him with the word "paid" or "canceled," and discharge any mortgages, restore any pledges, return any notes and cancel any assignments given by the borrower as security.

No personal loan company shall take any confession of judgment, any power of attorney nor shall it take any instrument that does not state the actual amount of the loan in question, the time for which it is made and the rate of interest, nor any instrument in which blanks are left to be filled after execution. [*Subd. 3 am'd by L. 1915, ch. 588.*]

§ 347. Restrictions on assignments of wages or salary.—Under any assignment or order for the payment of future salary or wages given as security for a loan made under this article a sum not exceeding ten per centum of the borrower's salary or wages shall be collectible therefrom under such an assignment or order at the time of each payment of salary or wages, if the amount of the loan has not been paid. Such assignment or order shall not be subject to the provisions of section forty-two of the personal property law.

Such an assignment or order, when made by a married man or woman, not legally separated from his or her spouse, shall not be valid unless accompanied by the written assent of his or her spouse. [*As am'd by L. 1915, ch. 588.*]

§ 362. Powers, duties and liabilities of authorized broker.—Every personal loan broker who shall have been duly authorized by the superintendent of banks shall be entitled to exercise the powers conferred upon personal loan companies by this article, and shall be subject to all the duties, restrictions, liabilities and penalties imposed upon such companies by this article, except that no personal loan broker shall transact his business at any place other than that specified in his authorization certificate. [*As re-enacted by L. 1915, ch. 588.*]

§ 368. Prohibitions against encroachment on powers relating to interest; violations of such prohibitions or of restrictions; penalty therefor.—No per-

son or corporation except as authorized by this chapter, shall directly or indirectly charge or receive any interest, discount or consideration greater than six per centum per annum upon the loan, use or forbearance of money, goods or things in action of the value of two hundred dollars or less, or upon the loan, use or sale of personal credit in any wise.

The foregoing prohibitions shall apply to any person who, as security for any such loan, use or forbearance of money, or for any such loan, use or sale of personal credit, makes a pretended purchase of property from any person and permits the owner or pledgor to retain the possession thereof, or who, by any device or pretense of charging for his services or otherwise, seeks to obtain a larger compensation than is authorized by this article.

Any person, and the several officers and employees of any corporation, who shall violate the foregoing prohibitions shall be guilty of a misdemeanor, and upon proof of such fact the debt shall be discharged and the security shall be void. But this section shall not apply to licensed pawnbrokers, making loans upon the actual and permanent deposit of personal property as security; nor shall this section affect in any way the validity or legality of any loan of money or credit exceeding two hundred dollars in amount.

Any personal loan broker and any officer or employee of a personal loan company who shall violate any of the provisions of section three hundred and forty-five of this chapter shall be guilty of a misdemeanor and upon proof of such fact the debt shall be discharged and the security shall be void. [*As am'd by L. 1915, ch. 588.*]

ORDINARY EXEMPTIONS NOT VALID AGAINST WAGE DEBTS

LAWS OF 1915, CHAPTER 279

AN ACT in relation to the municipal court of the city of New York, and repealing certain statutes affecting such court, its justices and officers

§ 139. Judgment and execution in favor of wage earners.—In an action by a journeyman, laborer, or other employee whose employment answers to the general description of wage earner, for services rendered or wages earned, if the plaintiff recovers a judgment for a sum not exceeding one hundred dollars, exclusive of costs, and the action was brought within three months after the cause of action accrued, no property of the defendant is exempt from levy and sale on execution; and if the execution is returned wholly or partly unsatisfied, the clerk must, upon the application of the plaintiff, issue an execution against the person of the defendant for the sum remaining uncollected. A defendant arrested in such a case must be actually confined in the jail and is not entitled to the liberties thereof, but must be discharged after having been so confined for fifteen days. After his discharge another execution against his person shall not issue upon the judgment, but the judgment creditor may enforce the judgment against his property. This section shall apply whether the defendant be male or female.

MAKING EMPLOYEES PREFERRED CREDITORS

DEBTOR AND CREDITOR LAW, CHAPTER 12 OF THE CONSOLIDATED LAWS

§ 22. Wages and preferred claims.—In all distribution of assets under all assignments made in pursuance of this article, the wages or salaries actually owing to the employees of the assignor or assignors at the time of the execution of the assignment for services rendered within three months prior

to the execution of the assignment, not exceeding three hundred dollars to each employee, shall be preferred before any other debt; and should the assets of the assignor or assignors not be sufficient to pay in full all the claims preferred, pursuant to this section, they shall be applied to the payment of the same pro rata to the amount of each such claim. [*As renumbered and am'd by L. 1914, ch. 360, § 8.*]

Formerly § 27.

LIABILITY OF STOCKHOLDERS FOR WAGE DEBTS

STOCK CORPORATION LAW, CHAPTER 59 OF THE CONSOLIDATED LAWS

§ 56. **Liabilities of stockholders.**—Every holder of capital stock not fully paid, in any stock corporation, shall be personally liable to its creditors, to an amount equal to the amount unpaid on the stock held by him for debts of the corporation contracted while such stock was held by him. As to existing corporations the liability imposed by this section shall be in lieu of the liability imposed upon stockholders of any existing corporation, under any general or special law, excepting laws relating to moneyed corporations, and corporations and associations for banking purposes, on account of any indebtedness hereafter contracted or any stock hereafter issued; but nothing in this section contained shall create or increase any liability of stockholders of any existing corporation under any general or special law.

§ 57. **Liabilities of stockholders to laborers, servants or employees.**—The stockholders of every stock corporation shall jointly and severally be personally liable for all debts due and owing to any of its laborers, servants or employees other than contractors, for services performed by them for such corporation. Before such laborer, servant or employee shall charge such stockholder for such services, he shall give him notice in writing, within thirty days after the termination of such services, that he intends to hold him liable, and shall commence an action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for services.

§ 58. **Non-liability in certain cases.**—No person holding stock in any corporation as collateral security, or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock, shall be personally subject to liability as a stockholder; but the person pledging such stock shall be considered the holder thereof and shall be liable as stockholder, and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in the like manner and to the same extent as the testator or intestate, or the ward or person interested in such trust fund would have been, if he had been living and competent to act and held the same stock in his own name, unless it appears that such executor, administrator, guardian or trustee voluntarily invested the trust funds in such stocks, in which case he shall be personally liable as a stockholder.

**LIABILITY OF RAILROAD CORPORATIONS TO EMPLOYEES OF CONTRACTORS
FOR WAGE DEBTS**

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 50. Liability of corporation to employees of contractor.—An action may be maintained against any railroad corporation by any laborer for the amount due him from any contractor for the construction of any part of its road, for ninety or any less number of days' labor performed by him in constructing such road, if within twenty days thereafter a written notice shall have been served upon the corporation, and the action shall have been commenced after the expiration of ten days and within six months after the service of such notice, which shall contain a statement of the month and particular days upon which the labor was performed and for which it was unpaid, the price per day, the amount due, the name of the contractor from whom due, and the section upon which performed, and shall be signed by the laborer or his attorney and verified by him to the effect that of his own knowledge the statements contained in it are true. The notice shall be served by delivering the same to an engineer, agent or superintendent having charge of the section of the road, upon which the labor was performed, personally, or by leaving it at his office or usual place of business with some person of suitable age or discretion; and if the corporation has no such agent, engineer or superintendent, or in case he can not be found and has no place of business open, service may in like manner be made on any officer or director of the corporation.

See further Lien Law, § 6, "Liens for labor on railroad"; also § 145 of the Canal Law providing security for wages of laborers on canals, p. 290, *post*.

Laborers employed by sub-contractors are protected by this act: 42 Hun 53.

COST AND FEES IN CERTAIN SUITS FOR WAGES

LAWS OF 1915, CHAPTER 279

AN ACT in relation to the municipal court of the city of New York, and repealing certain statutes affecting such court, its justices and officers.

§ 168. Costs in action by working woman.—In an action brought to recover a sum of money for wages earned by a female employee, or for materials furnished by her in the course of her employment or in or about the subject matter thereof, or for both, the plaintiff may, in the discretion of the court, be allowed the sum of ten dollars as costs irrespective of any other costs which she may recover; provided, however, that if the amount of damages recovered is less than ten dollars, she may be allowed the sum of five dollars as such additional costs.

§ 174. Employee's action; no fees.—When the action is brought by an employee against an employer for services performed by such employee, the clerk shall not demand or receive any fees whatsoever from the plaintiff or his attorney, if the plaintiff shall present proof by his own affidavit that his demand is less than fifty dollars, that he is a resident of the city of New York, that he has a good and meritorious cause of action against the defendant and the

nature thereof, that he has made either a written or a personal demand upon the defendant or his agent for payment thereof and that payment was refused; provided that if the plaintiff shall demand a trial by jury, he must pay to the clerk the fees therefor.

Sec. 139 of the Municipal Code provides for body executions against employers whose property is insufficient to satisfy judgments in wage suits. See "Ordinary exemptions not valid against wage debts," p. 277. *ante*.

MARRIED WOMAN'S RIGHT OF ACTION FOR WAGES, ETC.

DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS

§ 60. Married woman's right of action for wages.—A married woman shall have a cause of action in her own sole and separate right for all wages, salary, profits, compensation or other remuneration for which she may render work, labor or services, or which may be derived from any trade, business or occupation carried on by her, and her husband shall have no right of action therefor unless she or he with her knowledge and consent has otherwise expressly agreed with the person obligated to pay such wages, salary, profits, compensation or other remuneration. In any action or proceeding in which a married woman or her husband shall seek to recover wages, salary, profits, compensation or other remuneration for which such married woman has rendered work, labor or services or which was derived from any trade, business or occupation carried on by her or in which the loss of such wages, salary, profits, compensation or other remuneration shall be an item of damage claimed by a married woman or her husband, the presumption of law in all such cases shall be that such married woman is alone entitled thereto, unless the contrary expressly appears. This section shall not affect any right, cause of action or defense existing prior to May seventeenth, nineteen hundred and five.

PUBLIC WORK AND CONTRACTS

[Besides sections 3 and 14 of the Labor Law, *ante*, there is on the statute books a large body of laws for the regulation of wages, hours, etc., of persons employed on public work. Of this legislation only a few examples can be reproduced in this compilation. In addition to the statutes respecting employees of state prisons and armories, the Insanity Law (ch. 27 of the Consolidated Laws) contains an extremely detailed schedule of wages and salaries (*cf.* Report of the Commissioner of Labor, 1904, p. 105). Of the numerous laws fixing the terms of employment of municipal employees, again, only one example is here printed — that of the street cleaners of New York City. Nearly every city charter contains provisions as to the hours of work, compensation, etc., of policemen, firemen, and other employees, while the larger cities have established, through action of the Legislature, retirement funds or service pensions. An example of the latter may be seen in the provision for street cleaners' pensions in New York City given below. Such privileges are deemed to counterbalance the loss of certain constitutional rights upon entrance in the public service: firemen, for example, having no right to become members of an association that has for its object the influencing of legislation (*People ex rel. Clifford v. Scannell*, 74 App. Div. 406). The validity of this legislation has never been successfully challenged, so far as it relates to direct employment by public authorities. Public work done by contract, however, has been distinguished by the courts from work done by the employees of public authorities, but the amendment of the Constitution of 1905 brought such work under the authority of legislative enactment.]

EMPOWERING THE LEGISLATURE TO REGULATE THE CONDITIONS OF EMPLOYMENT ON PUBLIC WORK

CONSTITUTION OF THE STATE OF NEW YORK, ARTICLE XII

Section 1. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations; and the Legislature may regulate and fix the wages or salaries, the hours of work or labor, and make provision for the protection, welfare and safety of persons employed by the State or by any county, city, town, village or other civil division of the State, or by any contractor or sub-contractor performing work, labor or services for the State, or for any county, city, town, village or other civil division thereof. [*As amended in 1905.*]

LABORERS EMPLOYED IN THE STATE SERVICE

CIVIL SERVICE LAW, CHAPTER 7 OF THE CONSOLIDATED LAWS

§ 10. Rules for the classified state service. * * * No examination or registration shall be required of persons to be employed as laborers in the state service. * * *

Compare Civil Service Law, § 18, p. 283, *post*, requiring registration of laborers for *municipal* employment.

SEMI-MONTHLY PAYMENT OF WAGES TO STATE EMPLOYEES

STATE FINANCE LAW, CHAPTER 56 OF THE CONSOLIDATED LAWS

§ 2-a. The salaries of all officers of the state, and the wages of all employees thereof shall be due from and payable by the state twice each month, on the first and sixteenth days thereof, except where such days fall upon Sunday or a legal holiday when such payments shall be made upon the succeeding business day. Said salaries and wages shall be subject to all the provisions of section thirteen hundred and ninety-one of the code of civil procedure applicable to any wages, debts, earnings or salary, as if the state and the said wages and salary due and payable by it had been particularly designated therein. The provisions of this section shall be deemed to supersede any other provision of this chapter or of any general or special law inconsistent herewith. [*Added by L. 1910, ch. 317.*]

LABOR ON STATE BUILDINGS OR PLANTS

PUBLIC BUILDINGS LAW, CHAPTER 44 OF THE CONSOLIDATED LAWS

§ 18. Manner of doing work or acquiring material.—The work of erection, alteration, repair or improvement of any building or plant may be done by the employment of inmate or outside labor or both and by the purchase of materials in the open market whenever in the opinion of the state architect such a course shall be deemed advantageous to the state, and only upon plans and specifications prepared by him, but no compensation shall be allowed for the employment of inmate labor. [*Added by L. 1914, ch. 111.*]

FIXING THE COMPENSATION OF EMPLOYEES OF STATE PRISONS**PRISON LAW, CHAPTER 43 OF THE CONSOLIDATED LAWS**

§ 114. Compensation of other officers.—The superintendent of state prisons shall, from time to time, prescribe the compensation of the other officers of said prisons, but the compensation so fixed and prescribed for the following officers in each of such prisons shall not in any case exceed the rate of an annual salary, as follows: To the principal keeper, two thousand dollars; to the kitchen-keeper, store-keeper, hall-keeper, yard-keeper and sergeant of the guard, each fifteen hundred dollars; to the state detective at Sing Sing prison, eighteen hundred dollars. The compensation of guards and attendants in prison hospitals shall be as follows: For the first year's service, eight hundred dollars; for the second year's service, nine hundred dollars; for the third year's service, ten hundred dollars; for the fourth year's service, eleven hundred dollars; for the fifth year's service, and thereafter, twelve hundred dollars. [*As am'd by L. 1912, ch. 50; and L. 1914, ch. 189.*]

LABORERS AND MECHANICS IN STATE ARMORIES**MILITARY LAW, CHAPTER 36 OF THE CONSOLIDATED LAWS**

§ 189. Compensation of employees in armories.—The persons appointed under the provisions of the two preceding sections shall receive compensation for the time actually and necessarily employed in their duties, to be fixed by the officer appointing such persons as follows: When employed in armories or arsenals, armorers, janitors, electricians and engineers not to exceed four dollars per day. An armorer, janitor, electrician, engineer or laborer appointed by the commanding officer of an organization located in a city who under orders duly issued by such officer performs the whole or any part of his duties outside the limits of such city shall receive the compensation provided for an armorer, janitor, electrician, engineer or laborer employed in an armory, located in such city; laborers not to exceed three dollars per day. An armorer employed in an arsenal or armory having two hundred thousand or more square feet of floor surface and occupied by a regiment may in the discretion of the officer appointing, receive compensation not to exceed five dollars per day. The chief engineer in an armory having over two hundred thousand square feet of floor surface occupied by a regiment and lighted by electricity produced by machinery operated within such armory, may receive not to exceed five dollars per day. The compensation, as certified to by the officer appointing such persons, under the provisions of the two preceding sections, shall be paid semi-monthly upon the certificate of such officer, and shall in counties outside the city of New York be a charge upon the counties constituting the brigade district and within the city of New York upon the county in which such armory or arsenal is situated; and shall be levied, collected and paid in the same manner as other brigade district or county charges are levied, collected and paid. A commissioned officer in active service shall not be eligible for appointment to, and shall not hold the position of armorer, janitor, electrician, engineer or laborer in any armory or arsenal. The appointing officer shall grant to each employee a vacation of fourteen days per year with pay. [*As am'd by L. 1911, ch. 102; L. 1912, ch. 242; and L. 1913, ch. 558.*]

REGISTRATION OF LABORERS FOR MUNICIPAL EMPLOYMENT

THE CIVIL SERVICE LAW, CHAPTER 7 OF THE CONSOLIDATED LAWS

§ 18. The labor class in cities.—The labor class in cities shall include unskilled laborers and such skilled laborers as are not included in the competitive class or the noncompetitive class. Vacancies in the labor class in cities shall be filled by appointment from lists of applicants registered by the municipal commissions. Preference in employment from such lists shall be given according to date of application. There shall be separate lists of applicants for different kinds of labor or employment, and the commissions may establish separate labor lists for various institutions and departments. Where the labor service of any department or institution extends to separate localities, the commissions may provide separate registration lists for each district or locality. The commissions shall require an applicant for registration for the labor service to furnish such evidence or pass such examination as they may deem proper with respect to his age, residence, physical condition, ability to labor, skill, capacity and experience in the trade or employment for which he applies.

Veterans of the Civil War, who, under the terms of the Constitution (Art. V, § 9) are entitled to preference in the civil service "without regard to their standing," are to be placed at the head of registration lists as though their applications had been filed prior to those of persons not entitled to preference: § 21 of the Civil Service Law.

ASSIGNMENT OF EARNINGS BY MUNICIPAL EMPLOYEES

GENERAL MUNICIPAL LAW, CHAPTER 24 OF THE CONSOLIDATED LAWS

§ 86-a. Salary or earnings of municipal officer or employee.—No assignment of, or power of attorney to collect or other instrument affecting, the whole or any part of his salary or earnings by an officer or employee of any municipal corporation, or subdivision thereof, unless approved in writing by the head of the department, board, body or office in which such officer or employee is employed, shall in any way operate to prevent the payment of such salary or earnings directly to such officer or employee. In the event of the payment of such salary or earnings directly to such officer or employee, notwithstanding the existence of an assignment of, or power of attorney to collect or other instrument affecting, the whole or part thereof, not approved by the head of the department, board, body or office in which such officer or employee is employed, no person shall have any cause of action therefor against such municipal corporation or subdivision thereof for the recovery of any moneys by virtue of such unapproved assignment, power of attorney to collect or other instrument. [*Added by L. 1914, ch. 164.*]

FIXING WAGES AND SALARIES OF EMPLOYEES OF THE STREET CLEANING DEPARTMENT, NEW YORK CITY

THE REVISED CHARTER (LAWS OF 1901, CHAPTER 466)

§ 533. The members of the department of street cleaning shall be divided into two general classes, to be designated, respectively, the clerical force and the uniformed force. The clerical force shall consist of a chief clerk, medical examiners, not exceeding three in number, and such and so many clerks and

messengers as the commissioner of street cleaning shall deem necessary. The uniformed force shall be appointed by the commissioner of street cleaning, and shall consist of one general superintendent, one assistant superintendent, one superintendent of final disposition, one assistant superintendent of final disposition, district superintendents, not exceeding twenty-one in number; time collectors, not exceeding eight in number; section foremen, not exceeding one hundred and twenty-five in number; dump inspectors, not exceeding forty-three in number; assistant dump inspectors, not exceeding forty-three in number; sweepers, not exceeding thirty-one hundred in number; dump boardmen, not exceeding forty-three in number; drivers, not exceeding sixteen hundred in number; stable foremen, not exceeding twenty-one in number; assistant stable foremen, not exceeding twenty-one in number; hostlers, not exceeding one head hostler to each stable and additional hostlers not exceeding one for each ten horses; a master mechanic and such and so many mechanics and helpers as may be necessary. The commissioner of street cleaning shall have power and is hereby authorized to increase the said uniformed force, from time to time, by adding to the number of sweepers, drivers and hostlers provided the board of estimate and apportionment and the board of aldermen shall have previously made an appropriation for the purpose of permitting such increase. The annual salaries and compensations of the members of the uniformed force of the department of street cleaning shall not exceed the following: Of the general superintendent, three thousand dollars; of the assistant superintendent, two thousand five hundred dollars; of the master mechanic, one thousand eight hundred dollars; of the superintendent of final disposition, two thousand dollars; of the assistant superintendent of final disposition, one thousand five hundred dollars; of the district superintendents, one thousand eight hundred dollars each; of the time collectors, one thousand two hundred dollars each; of the section foremen, one thousand two hundred dollars each; of sweepers or drivers acting as assistants to the section or stable foremen, nine hundred dollars each; of the dump inspectors, one thousand two hundred dollars each; of the assistant dump inspectors, nine hundred dollars each; of the dump boardmen, seven hundred and twenty dollars each; of the sweepers, seven hundred and twenty dollars each; of the drivers, seven hundred and twenty dollars each; of the stable foremen, one thousand three hundred dollars each; of the assistant stable foremen, one thousand dollars each; of the hostlers, seven hundred and twenty dollars each. Hostlers may receive extra pay for Sundays if an appropriation therefor is made by the board of estimate and apportionment. The members of the department of street cleaning shall be employed at all such times and during such hours and upon such duties as the commissioner of street cleaning shall direct for the purpose of an effective performance of the work devolving upon the said department. In case of a snow fall or other emergency, the commissioner of street cleaning or the deputy commissioner may hire and employ temporarily such and so many men, carts and horses as shall be rendered necessary by such emergency, forthwith reporting such action with the full particulars thereof to the mayor, but no man, cart or horse, shall be so hired or employed for a longer period than three days, except that any person registered or eligible to appointment as a driver, or

as a sweeper, may be temporarily employed at any time as an extra driver or sweeper to fill the place of a driver or sweeper who is suspended or temporarily absent from duty from any cause. The rate of compensation for such extra drivers or sweepers shall be two dollars per day, and the driver or sweeper whose place is so filled shall not receive any compensation for the time during which he is so absent from duty or his place is so filled, unless such injury or illness was caused by service in the department. The service of any person employed, and of carts and horses hired pursuant to this section, shall be paid for in full and directly by the department of street cleaning, at such times as may be prescribed by such department; and they, and each of them, shall be employed and hired directly by the department of street cleaning and not through contractors or other persons, unless the commissioner himself shall determine that this requirement must for proper action in a particular instance be dispensed with. Nothing herein contained shall affect any existing contracts made with or by the department of street cleaning in regard to the cleaning of Broadway below Fourteenth street in said city or the renewal thereof, if deemed best by the commissioner of said department. Neither the commissioner of street cleaning, nor any deputy commissioner of street cleaning, nor any member of the uniformed force of the street cleaning department, shall be permitted to contribute any moneys, directly or indirectly, to any political fund, or intended to affect legislation for or on behalf of the street cleaning department or any member thereof.

RELIEF AND PENSION FUND FOR NEW YORK CITY STREET CLEANERS
THE REVISED CHARTER (LAWS OF 1901, CHAPTER 466)

§ 548. There shall be a relief and pension fund of the department of street cleaning which shall be made up, administered and used for the benefit of the members of the clerical and uniformed forces of the department of street cleaning as defined by section five hundred and thirty-six of the charter, and the incumbents of such other positions in said department as have been created and not specified in section five hundred and thirty-six of the charter. [Added by L. 1911, ch. 839.]

§ 549. The relief and pension fund of the department of street cleaning of the city of New York shall consist of the following moneys and the interest and income thereof:

First. A sum of money equal to, but not greater than, three per centum of the weekly or monthly pay, salary or compensation of each such member of the department of street cleaning, which sum shall be deducted, weekly or monthly, as the case may be, by the comptroller from the pay, salary or compensation, of each and every such member of the department of street cleaning, and the said comptroller is hereby authorized, empowered and directed to deduct said sum of money as aforesaid, and to pay the same monthly to the treasurer and trustee of the relief and pension fund of the department of street cleaning.

Second. All money, pay, compensation or salary, or any part thereof, forfeited, deducted or withheld from any such member of the department of street cleaning on account of fines, suspensions or absence from any cause,

loss of time, sickness or other disability, physical or mental, to be paid monthly by the comptroller to the treasurer and trustee of said pension fund, except in the case of a sweeper, driver, hostler, stableman or other employee who may have been sick or absent from any cause, and whose position has been filled by an extra sweeper, driver, stableman or other temporary employee, to whom compensation has been paid.

Third. All moneys received for the privilege of scow trimming or assorting of refuse at the various dumps in the boroughs of Manhattan, Brooklyn or Bronx, or at any other place where refuse may be disposed of, excepting in so far as the provisions of any contract now in force between the city of New York and contractors give such privilege to the contractors. All contracts hereafter made shall stipulate that the proceeds from such trimming or assorting of refuse shall be paid by the comptroller to the trustee and treasurer of said pension fund.

Fourth. All moneys received from the sale of steam or house ashes, garbage and refuse, collected by the department of street cleaning, and any moneys that may be received for the disposal of such steam or house ashes, garbage or refuse.

Fifth. All proceeds of sales of condemned horses or other property of said department, excepting real property; and so much of the proceeds of sales of unharnessed trucks, carts, wagons and vehicles of any description, and of all boxes, barrels, bales or other merchandise, or other movable property, found in any public street or place and removed therefrom by the commissioner of street cleaning under any provision of law authorizing said commissioner to remove and to sell such incumbrances, as exceeds the necessary expense of the sales of such condemned property or unredeemed incumbrances and which is not under such provision of the law, payable to the lawful owner or owners of such incumbrances so sold, and all moneys collected for the release of merchandise, unharnessed vehicles or movable property removed as aforesaid.

Sixth. Any and all unexpended balances of amounts appropriated for the payment of salaries or compensation of such members of the department of street cleaning remaining unexpended after the allowance of all claims payable therefrom. And the comptroller is hereby authorized to pay over such unexpended balances to the treasurer and trustee of said pension fund at any time after the expiration of the year for which such amounts were appropriated, after allowing sufficient to satisfy all the claims payable therefrom as aforesaid.

Seventh. All gifts or bequests which may be made to said fund or the commissioner of street cleaning as treasurer and trustee of said fund. [*Section 549, added by L. 1911, ch. 839.*]

§ 550. The commissioner of street cleaning shall be the trustee and treasurer of said relief and pension fund. He shall, before entering upon his duties as treasurer and trustee thereof, deliver to the comptroller a bond in the penal sum of seventy-five thousand dollars, to be approved by the comptroller, conditioned for the faithful discharge and performance of his duties as such treasurer and trustee. Compensation shall be made to the commissioner of street cleaning for the expense of procuring sureties for said bond, to be paid out of said pension fund. Said treasurer and trustee shall

have charge of and administer said fund. He shall receive all moneys applicable to said fund, and, from time to time, shall invest such moneys, or any part thereof, in any manner allowed by law for investments by savings banks, as he shall deem beneficial to said fund; and he is empowered to make all necessary contracts and to conduct necessary and proper actions and proceedings in the premises, and to pay from said fund the relief or pensions granted in pursuance of this act. And he is authorized and empowered to establish, from time to time, such rules and regulations for the disposition and investment, preservation and administration of said pension fund as he may deem best. No payment whatever shall be allowed or made by said treasurer and trustee from said fund as reward, gratuity or compensation to any person for salary or service rendered to or for said treasurer and trustee, except payment of necessary legal expenses and compensation as aforesaid for the expenses of procuring sureties on said bond. The commissioner of street cleaning may employ the members of the clerical force in such clerical work as may be necessary for the care and administration of said fund as a part of their regular duties and without extra compensation. On or before the first day of February of each year the said treasurer and trustee shall make a verified report to the mayor containing a statement of the account of said fund under his control and of all receipts, investments and disbursements, on account of said fund, together with the name and residence of each beneficiary. There shall be an auditing committee consisting of three members of the department of street cleaning, to be appointed by the mayor. It shall be the duty of such auditing committee, on or before the first day of March in each year, to examine the condition of said relief and pension fund and to audit the accounts of said treasurer and trustee and to make report thereon to the mayor within thirty days thereafter. *[Added by L. 1911, ch. 839.]*

§ 551. The commissioner of street cleaning, as treasurer and trustee of said relief and pension fund, is hereby authorized and empowered to take and hold any and all gifts or bequests which may be made to such fund, and to transfer such gifts or bequests to his successor, together with all other moneys or property belonging to said fund. *[Added by L. 1911, ch. 839.]*

§ 552. The commissioner of street cleaning shall have power in his discretion to retire and dismiss from membership in his department a member of the department of street cleaning as hereinafter provided; and he shall grant relief or a pension to such member so retired and dismissed from membership, and to the widows and orphans of members of said department who may be entitled to receive such relief or pension, to be paid from said relief or pension fund, in monthly instalments, as follows:

First. To any such member who, at any time after the passage of this act, while in the actual performance of duty, and without fault or misconduct on the part of such member, shall have become permanently disabled, physically or mentally, so as to be unfit to perform the duties required of such member, provided that such unfitness for duty has been certified to by a majority of the medical examiners of said department, the sum of twenty-five dollars per month.

Second. To the widow of any member of the department of street cleaning who, after the passage of this act, shall have been killed while in the actual performance of his duty, or shall have died from the effects of any

injury received while in the actual performance of such duty, the sum of not more than three hundred dollars per annum; and to the widow of any member of such force who shall hereafter die and who shall have been ten years in the service in said department at the time of his death, or who shall have been retired on a pension, as hereinafter provided, if there shall be no child or children of such member under eighteen years of age, the sum of not more than two hundred dollars per annum, in the discretion of said treasurer and trustee; and if there be such child or children of such member under the age aforesaid, then such sum may be divided between such widow, child or children in such proportion and in such manner as the said treasurer and trustee may direct. The right of such widow to such pension shall cease and terminate at her death or remarriage; or if she shall have been guilty of conduct which in the opinion of said treasurer and trustee renders payment inexpedient.

Third. To any child or children under eighteen years of age of such member killed or dying as aforesaid, or dying after retirement leaving no widow, or if a widow, then after her death, a sum not exceeding two hundred dollars per annum to be paid as such treasurer and trustee shall direct until such child or children shall have attained the age of eighteen years or shall have married.

Fourth. To the widowed mother of any such member, who was the sole support of such mother, who shall die after the passage of this act, a sum not to exceed two hundred dollars per annum, to cease upon the death or remarriage of such widowed mother. [Section 552, added by L. 1911, ch. 839.]

§ 553. Any such member who has or shall have performed duty as such member for a period of ten years or upwards shall be relieved and dismissed from said force upon his or her own application, or by order of the commissioner, upon an examination by the medical examiners of said department, to be made at any time when so applied for or when so ordered, if a majority of such medical examiners shall certify that such member is permanently disabled, physically or mentally, so as to be unfit for duty; and such member so relieved and dismissed from said force shall be paid from said fund in monthly instalments during his or her lifetime a sum not less than one-half of the annual salary or compensation of such member when he or she was so retired; and any such member who shall have performed duty on said force for a period of twenty years or upward, whether continuous or rendered during different periods, and who has reached the age of sixty years, may, upon the application of such member in writing, be relieved and dismissed from said force and service, and shall be paid from said fund in monthly instalments during his or her lifetime a sum not less than one-half of the annual salary or compensation of such member when so retired; provided, however, that no such member shall be so retired or granted a pension while there are charges of official misconduct pending against him or her. Pensions granted under this section shall be for the natural life of the pensioner and shall not be revoked, repealed or diminished. [Added by L. 1911, ch. 839.]

§ 554. The commissioner of street cleaning, as such treasurer and trustee, is authorized and empowered to make and enforce all such rules, orders and regulations as may be necessary to carry out the provisions of this act relative to pensions and may employ members of the department for such purpose so far as may be required. *[Added by L. 1911, ch. 839.]*

§ 555. The moneys or other property of the relief and pension fund of the department of street cleaning and all pensions or relief moneys granted and payable from said fund shall be, and the same are, exempt from levy and sale under execution, and from all processes or proceedings to enjoin payment, or to recover such moneys or property, by or on behalf of any creditor or other person having or asserting any claim against, or debt or liability of any person entitled to such pension or relief. *[Added by L. 1911, ch. 839.]*

§ 556. This act shall take effect October first, nineteen hundred and eleven, so far as it applies to the deduction by the comptroller of three per centum of the pay, salary or compensation of the members of the department of street cleaning, and to the collection and taking over by said treasurer and trustee of such other moneys as are provided by this act to be taken for such fund, and all such moneys shall be so taken and held for such purpose by said treasurer and trustee on and after said date. Provided, however, that no such deduction of such per centum shall be made by the comptroller from the pay, salary or compensation of any person who is or was a member of the department of street cleaning on or before September first, nineteen hundred and eleven, unless such member shall have given his or her consent in writing to the commissioner of street cleaning on or before that date that he or she agrees to abide by the provisions of this act and authorizes the comptroller of the city of New York to so deduct such per centum; and any such member who fails to give such written consent shall not be entitled to be or to become a beneficiary of said relief and pension fund; but such deduction of such per centum shall be made by the comptroller without such consent from the pay, salary or compensation of any person who shall become a member of the department of street cleaning after September first, nineteen hundred and eleven, and all such persons shall be entitled to or become beneficiaries of said relief and pension fund without such written consent to such deduction. *[Added by L. 1911, ch. 839.]*

§ 557. No relief or pension shall be paid to any person under the provisions of this act, and no person shall be entitled to receive any of the benefits provided for in this act prior to January first, nineteen hundred and thirteen, excepting that relief and pensions granted under the provisions of this act shall be payable to and through members of the department who shall die or become disabled on and after September first, nineteen hundred and eleven, but the payment of such relief or pension shall be postponed until January first, nineteen hundred and thirteen, on which date the provisions of this act providing for the payment of relief or pensions shall take effect. *[Added by L. 1911, ch. 839.]*

PROHIBITING THE SUB-LETTING OF PUBLIC CONTRACTS**GENERAL MUNICIPAL LAW, CHAPTER 24 OF THE CONSOLIDATED LAWS**

[See also § 43 of State Finance Law, ch. 56 of the Consolidated Laws]

§ 86. Contractors not to assign contracts with municipality without its consent.—A clause shall be inserted in all specifications or contracts hereafter made or awarded by any municipal corporation, or any public department or official thereof, prohibiting any contractor, to whom any contract shall be let, granted or awarded, as required by law, from assigning, transferring, conveying, subletting or otherwise disposing of the same, or of his right, title or interest therein, or his power to execute such contract to any other person, company or corporation, without the previous consent in writing of the department or official awarding the same.

If any contractor, to whom any contract is hereafter let, granted or awarded, as required by law, by any municipal corporation in the state, or by any public department or official thereof, shall, without the previous written consent specified in the first paragraph of this section, assign, transfer, convey, sublet, or otherwise dispose of the same, or his right, title or interest therein, or his power to execute such contract, to any other person, company or other corporation, the municipal corporation, public department, or official as the case may be, which let, made, granted or awarded said contract shall revoke and annul such contract, and the municipal corporation, public department or officer, as the case may be, shall be relieved and discharged from any and all liability and obligations growing out of said contract to such contractor, and to the person, company, or corporation to whom he shall assign, transfer, convey, sublet or otherwise dispose of the same, and said contractor, and his assignee, transferee, or sub-lessee, shall forfeit and lose all moneys, theretofore earned under said contract except so much as may be required to pay his employees; provided that nothing herein contained shall be construed to hinder, prevent or affect an assignment by such contractor for the benefit of his creditors, made pursuant to the statutes of this state.

SECURING THE PAYMENT OF WAGES TO EMPLOYEES OF CONTRACTORS UPON CANALS**CANAL LAW, CHAPTER 5 OF THE CONSOLIDATED LAWS**

§ 145. Security for payment of laborers.—The superintendent of public works or assistant superintendent having charge, shall also require and take from the contractor, a bond with at least two good and sufficient sureties, conditioned that such contractor will well and truly pay in full, at least once in each month, all laborers employed by him on the work specified in such contract, which shall be duly acknowledged and filed in the office of the clerk of the county wherein such contract or work is to be performed, and if partly in two or more counties, such bond or a certified copy thereof shall be filed in the clerk's office of each county.

Actions may be brought for a breach of such bond by any laborer not paid in accordance with its terms, and the commencement or maintenance of an action by one or more laborers thereon shall not be a bar to the commencement and maintenance of other actions thereon by other laborers. No action shall be maintained against the sureties unless brought within thirty

days after the completion of the labor the payment of which is secured by the bond.

Laborers are those who perform labor on canals and do not include sub-contractors: (Swift v. Kingsley, 24 Barb. 541; McCluskey v. Cromwell, 11 N. Y. 503.)

**AUTHORIZING THE EIGHT HOUR DAY UPON RESERVOIR CONSTRUCTION IN
NEW YORK CITY**

LAWS OF 1902, CHAPTER 588

AN ACT relative to the powers of the aqueduct commissioners, provided for and holding office under and pursuant to the provisions of chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, and its amendments.

Section 1. The aqueduct commissioners, provided for and holding office under and pursuant to the provisions of an act of the legislature of the state of New York, entitled "An act to provide new reservoirs, dams and a new aqueduct with the appurtenances thereto, for the purpose of supplying the city of New York with an increased supply of pure and wholesome water," said act being chapter four hundred and ninety of the laws of eighteen hundred and eighty-three, and its amendments, are hereby authorized and empowered to agree with any person, firm or corporation with whom they have contracted or may hereafter contract, upon such terms and conditions as shall in their judgment and discretion, be for the best interests of the city of New York, that eight hours shall constitute a day's work for all laborers employed by said person, firm or corporation in the performance of his or its contract and that no laborer employed in the performance of any such contract shall be required, permitted or allowed to work more than eight hours. No agreement made under the provisions of this act shall be valid or binding until the same has been approved by the board of estimate and apportionment of the city of New York.

PRISON LABOR *

OCCUPATION AND EMPLOYMENT OF CONVICTS

CONSTITUTION OF STATE OF NEW YORK, ARTICLE III

Section 29. The Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and on and after the first day of January, in the year one thousand eight hundred and ninety-seven, no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labor may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State, or any political division thereof.

Trees raised by convicts under the supervision of the conservation commission and superintendent of prisons may be sold for private use in reforestation: Opinion of Attorney-General, October 11, 1911.

* See also article 18 of the Labor Law, p. 126, *ante*.

PRISON LAW, CHAPTER 43 OF THE CONSOLIDATED LAWS

ARTICLE 7

Prison Labor

Section 170. Contracts prohibited.

- 171. Prisoners to be employed; products of labor of prisoners.
- 172. Labor of prisoners of first grade, how directed.
- 173. Labor of prisoners of second grade, how directed.
- 174. Labor of prisoners of third grade, how directed.
- 175. Prisoners employed for use of state, and divisions thereof.
- 176. No printing or photo-engraving to be done by prisoners for use of state.
- 177. Labor of prisoners in prisons, reformatories, penitentiaries and county jails.
- 178. Labor of prisoners in certain institutions.
- 179. Employment of convicts on public highways.
- 180. Persons interfering with convicts employed on highways guilty of misdemeanor.
- 181. Classification of industries; report as to industries.
- 182. Articles manufactured to be furnished to the state or division thereof.
- 183. Estimates of articles required to be furnished commission of prisons by officers.
- 184. Board of classification; prices to be fixed.
- 185. Earnings of prisoners.
- 186. Disposition of fines.
- 187. Disposition of moneys paid to prisoner for his labor.
- 188. Monthly statement of receipts and expenditures for prison industries.
- 189. Statement of machinery and materials required.
- 190. Machinery and materials for prison industries, how purchased.
- 191. Disposition of machinery on discontinuance of industry.
- 192. Purchases to be included in estimates.
- 193. Deposits by agent and warden in banks.
- 194. Violations of prison labor regulations.

§ 170. Contracts prohibited.—The superintendent of state prisons shall not, nor shall any other authority whatsoever, make any contract by which the labor or time of any prisoner in any state prison, reformatory, penitentiary or jail in this state, or the product or profit of his work, shall be contracted let, farmed out, given or sold to any person, firm, association or corporation: except that the convicts in said penal institutions may work for, and the products of their labor may be disposed of to, the state or any political division thereof or for or to any public institution owned or managed and controlled by the state, or any political division thereof.

§ 171. Prisoners to be employed; products of labor of prisoners.—The superintendent of state prisons, the superintendents, managers and officials of all reformatories and penitentiaries in the state, shall, so far as practicable, cause all the prisoners in said institutions, who are physically capable thereof, to be employed at hard labor, for not to exceed eight hours of each day, other than Sundays and public holidays, but such hard labor shall be either for the purpose of production of supplies for said institutions, or for the state, or any political division thereof, or for any public institution owned or managed and controlled by the state, or any political division thereof; or for the purpose of industrial training and instruction, or partly for one, and partly for the other of such purposes.

§ 172. Labor of prisoners of first grade, how directed.—The labor of the prisoners of the first grade in each of said prisons, reformatories and penitentiaries, shall be directed with reference to fitting the prisoner to maintain

himself by honest industry after his discharge from imprisonment, as the primary or sole object of such labor, and such prisoners of the first grade may be so employed at hard labor for industrial training and instruction solely, even though no useful or salable products result from their labor, but only in case such industrial training or instruction can be more effectively given in such manner. Otherwise, and so far as is consistent with the primary object of the labor of prisoners of the first grade as aforesaid, the labor of such prisoners shall be so directed as to produce the greatest amount of useful products, articles and supplies needed and used in the said institutions, and in the buildings and offices of the state, or those of any political division thereof, or in any public institution owned or managed and controlled by the state or any political division thereof, or said labor may be for the state, or any political division thereof.

§ 173. Labor of prisoners of second grade, how directed.—The labor of prisoners of the second grade in said prisons, reformatories and penitentiaries shall be directed primarily to labor for the state or any political division thereof, or to the production and manufacture of useful articles and supplies for said institutions, or for any public institution owned or managed and controlled by the state, or any political division thereof.

§ 174. Labor of prisoners of third grade, how directed.—The labor of prisoners of the third grade shall be directed to such exercise as shall tend to the preservation of health, or they shall be employed in labor for the state, or a political division thereof, or in the manufacture of such useful articles and supplies as are needed and used in the said institutions, and in the public institutions owned or managed and controlled by the state, or any political division thereof.

§ 175. Prisoners employed for use of state, and divisions thereof.—All convicts sentenced to state prisons, reformatories and penitentiaries in the state, shall be employed for the state, or a political division thereof, or in productive industries for the benefit of the state, or the political divisions thereof, or for the use of public institutions owned or managed and controlled by the state, or the political divisions thereof, which shall be under rules and regulations for the distribution and diversification thereof, to be established by the state commission of prisons.

§ 176. No printing or photo-engraving to be done by prisoners for use of state.—No printing or photo-engraving shall be done in any state prison, penitentiary or reformatory for the state or any political division thereof, or for any public institution owned or managed and controlled by the state or any such political division, except such printing as may be required for or used in the penal and state charitable institutions, and the reports of the state commission of prisons and the superintendent of prisons, and all printing required in their offices.

§ 177. Labor of prisoners in prisons, reformatories, penitentiaries and county jails.—The labor of the convicts in the state prisons and reformatories in the state, after the necessary labor for and manufacture of all needed supplies for said institutions, shall be primarily devoted to the state and the public buildings and institutions thereof, and the manufacture of supplies for the state, and public institutions thereof, and secondly to the political divisions of the state, and public institutions thereof; and the labor of the convicts in

the penitentiaries, workhouses and county jails after the necessary labor for and manufacture of all needed supplies for the same, shall be primarily devoted to the counties, respectively, in which said penitentiaries, workhouses or county jails are located, and the towns, cities and villages therein, and to the manufacture of supplies for the public institutions of the counties, or the political divisions thereof, and secondly to the state and the public institutions thereof, provided, however, that for the purpose of disposing of the whole or any part of the product of any penal institution in the state, other than said state prisons and state reformatories, to the state or to any political divisions thereof or to any public institutions owned or managed and controlled by the state, or by any political division thereof, the managing authority of any such penal institution and the state superintendent of prisons may enter into a contract or contracts which may determine the kinds and qualities of articles to be produced by such institution and the method of distribution and sale thereof by the state superintendent of prisons or under his directions, either in separate lots or in combination with the products of other such institutions and with the products of state prisons and may fix and determine any and all terms and conditions for the disposition of such products of such institutions and the disposition of proceeds of sale thereof and any and all other terms and conditions as may be agreed upon, not inconsistent with the constitution, provided, however, that no such contract shall be for a period of more than five years and that any prices fixed by such contracts shall be the current prices fixed by the state board of classification for like articles or shall be approved by the state board of classification on presentation to it of a copy of such contract or proposed contract, and provided further that any distribution or diversification of industries provided for by such contract shall be in accordance with the rules and regulations established by the state commission of prisons or shall be approved by the state commission of prisons on presentation to it of a copy of such contract or proposed contract. Provided, furthermore, that no product manufactured in whole or in part by or in any penal institution of the state or of a political division thereof, shall be sold, or otherwise disposed of for profit, by any officer, or administrative body, of such institution, or by any officer, or administrative body of the state, or of a political division thereof; except to the state itself or to a political division thereof, or to an officer or administrative body of the state, or of a political division thereof, or to or for a public institution owned or managed and controlled by the state or by any political division thereof; and in no case shall said products be purchased for the purpose of resale or for their disposition for profit in a manner not herein provided for in the first instance. A violation of any of the foregoing provisions shall constitute sufficient cause for the removal of such officer or board of administration by the duly constituted authority having jurisdiction. [*As am'd by L. 1915, ch. 282.*]

The labor of county jail prisoners is regulated also by the County Law, § 93, p. 298, *post* and the labor of penitentiary prisoners also by § 321 of the Prison Law as amended by L. 1915, ch. 366.

§ 178. Labor of prisoners in certain institutions.—The state board of managers of reformatories, and the managing authorities of all the penitentiaries or other penal institutions in this state, are hereby authorized and directed to conduct the labor of prisoners therein, respectively, in like manner and under like restrictions, as labor is authorized by sections one hundred and seventy and one hundred and seventy-one of this article, to be conducted in state prisons.

§ 179. **Employment of convicts on public highways.**—The superintendent of state prisons may employ or cause to be employed the convicts confined in the state prisons in the repair of state and county highways at any place within the state upon request of the state commission of highways, the construction or improvement of state or county highways constructed or improved by any board of supervisors or town board under a contract with such commission of highways, upon request as provided in section one hundred and thirty-one of the highway law, and also in the improvement or repair of any other public highway. The expense of maintenance of such convicts while employed in repairing a state or county highway shall be borne by the state and paid by the state commission of highways, in the same manner as other expenses in repairing such highways.

The agent and warden of each prison may make such rules as he may deem necessary for the proper care, custody and control of such prisoners while so employed, subject to the approval of the superintendent of state prisons.

The agent and warden of each prison may designate, subject to the approval of the superintendent of state prisons, the highways and portions thereof upon which such labor shall be employed; and such portions so designated and approved, except portions of a state or county highway, shall be under his control during the time such construction, improvements or repairs are in progress, and the state highway commission shall fix the grade and width of the roadway of any such highway and direct the manner in which the work shall be done.

A state or county highway herein referred to is a state or county highway as defined in the highway law.

The superintendent of state prisons is hereby authorized to purchase any machinery, tools and materials necessary in such employment, except employment on a state or county highway. [*As am'd by L. 1914, ch. 60.*]

See also §§ 131, 320-a of the Highway Law, p. 297, *post*. A prison warden may not bid on a contract for highway construction, the labor to be performed by inmates of state prison: Opinion of Attorney-General, June 23, 1913.

§ 182. **Articles manufactured to be furnished to the state or division thereof.**—The superintendent of state prisons, and the superintendents of reformatories and penitentiaries, respectively, are authorized and directed to cause to be manufactured by the convicts in the prisons, reformatories and penitentiaries, such articles as are needed and used therein, and also such as are required by the state or political divisions thereof, and in the buildings, offices and public institutions owned or managed and controlled by the state, including articles and materials to be used in the erection of the buildings. All such articles manufactured in the state prisons, reformatories and penitentiaries, and not required for use therein, shall be of the styles, patterns, designs and qualities fixed by the board of classification, and may be furnished to the state, or to any political division thereof, or for or to any public institution owned or managed and controlled by the state, or any political division thereof, at and for such prices as shall be fixed and determined as hereinafter provided, upon the requisitions of the proper officials, trustees or managers thereof. No article so manufactured shall be purchased from any other source, for the state or public institutions of the state, or the political

divisions thereof, unless said state commission of prisons shall certify that the same can not be furnished upon such requisition, and no claim therefor shall be audited or paid without such certificate.

This section requires the purchase of desks for use in public schools from penal institutions, if such institutions can furnish the desks: Opinion of Attorney-General, April 15, 1913.

By section 135-a of the General Municipal Law, added by L. 1913, ch. 841, supplies may be manufactured in the workshops of municipal hospitals for tuberculosis by inmates thereof and sold to any department of such municipality notwithstanding the provisions of above section.

§ 183. Estimates of articles required to be furnished commission of prisons by officers.—On or before October first in each year, the proper officials of the state, and the political divisions thereof, and of the institutions of the state, or political divisions thereof, shall report to the said commission of prisons estimates for the ensuing year of the amount of supplies of different kinds required to be purchased by them that can be furnished by the penal institutions in the state. The said commission is authorized to make regulations for said reports, to provide for the manner in which requisitions shall be made for supplies, and to provide for the proper diversification of the industries in said penal institutions.

§ 184. Board of classification; prices to be fixed.—The fiscal supervisor of state charities, the state commission of prisons, and the superintendent of state prisons and the lunacy commission are hereby constituted a board to be known as the board of classification. Said board shall fix and determine the prices at which all labor performed, and all articles manufactured in the charitable institutions managed and controlled by the state and in the penal institutions in this state, and furnished to the state, or the political divisions thereof, or to the public institutions thereof, shall be furnished, which prices shall be uniform to all, except that the prices for goods or labor furnished by the penitentiaries to or for the county in which they are located, or the political divisions thereof, shall be fixed by the board of supervisors of such counties, except New York and Kings counties, in which the prices shall be fixed by the commissioners of charities and correction, respectively. The prices shall be as near the usual market price for such labor and supplies as possible. The state commission of prisons shall devise and furnish to all such institutions a proper form for such requisition, and the comptroller shall devise and furnish a proper system of accounts to be kept for all such transactions. It shall also be the duty of the board of classification to classify the buildings, offices and institutions owned or managed and controlled by the state, and it shall fix and determine the styles, patterns, designs and qualities of the articles to be manufactured for such buildings, offices and public institutions, in the charitable and penal institutions in this state. So far as practicable, all supplies used in such buildings, offices and public institutions shall be uniform for each class, and of the styles, patterns, designs and qualities that can be manufactured in the penal institutions in this state.

§ 185. Earnings of prisoners.—Every prisoner confined in the state prisons, reformatories and penitentiaries, and every prisoner serving sentence in the county jails, may, in the discretion of the managing authority of said institu-

tion, receive compensation from the earnings of the institution in which he is confined, such compensation to be graded by such managing authority for the time such prisoner may work, but in no case shall the compensation allowed to such convicts exceed in amount ten per centum of the earnings of the institution in which they are confined; provided, however, that any compensation in excess of one and one-half cents per day shall be based upon an amount of work or labor performed by him at his option in excess of a given amount fixed for him to perform for the benefit of the state, or political subdivision thereof, and in such case his compensation may, in the discretion of such managing authority be a sum equal to the value of the additional work or labor so performed or to the value of the product or portion thereof produced by such additional work or labor, except that his total compensation shall not in any case exceed the amount of twenty cents a day. The difference in the rate of compensation shall be based both on the pecuniary value of the work performed, and also on the willingness, industry and good conduct of such prisoner; provided, that whenever any prisoner shall forfeit his good time for misconduct or violation of the rules or regulations of the prison, reformatory, penitentiary or county jail, he shall forfeit out of the compensation allowed under this section such an amount as may be determined by the managing authority of any such institution, not to exceed twenty-five cents for each day of good time so forfeited. The managing authority of any such institution may institute and maintain a uniform system of fines, to be imposed at his discretion, in place of his other penalties and punishments, to be deducted from such compensation standing to the credit of any prisoner, for misconduct by such prisoner. [As am'd by L. 1914, ch. 68 and L. 1915, ch. 288.]

EMPLOYMENT OF CONVICTS ON STATE AND COUNTY HIGHWAYS

HIGHWAY LAW, CHAPTER 25 OF THE CONSOLIDATED LAWS

§ 131. Award of contracts to board of supervisors or town board.—
* * *. When a contract is entered into under the provisions of this section, the board undertaking thereby to construct or improve a highway or section thereof, may, by resolution, direct the person or persons designated for carrying out the contract to apply to the superintendent of state prisons for convict labor, in the construction of such highway or section thereof. The resolution shall specify the maximum number of convicts to be applied for, for such work. Such designated person or persons shall make request, in writing, to the superintendent of state prisons for convict labor, in conformity to the provisions of such resolution, such request to be accompanied with a copy of such resolution. A copy of such resolution and of such request shall also be filed with the commission. The superintendent may detail for labor, pursuant to such resolution and request, such number of convicts as may be available therefor, not exceeding the number applied for. Such convicts shall be in the immediate charge and custody of the officers and guards detailed by the superintendent of state prisons, and at all times subject to the control of such superintendent, except that the work to be done shall be directed by the engineers and foremen of the state

highway department. The expense of maintenance of such convicts shall be paid by the county or town entering into such contract from funds due thereon, to such municipality. * * *. [*As am'd by L. 1914, ch. 60.*]

See also L. 1914, ch. 68, for provisions relative to employment of convict labor on state highway route, No. 5-c, in Greene county; § 179 of the Prison Law, p. 295, *ante*.

Special powers for employment of penitentiary convicts on public works and highways are conferred upon Erie county by L. 1915, chs. 366, 556, and upon Onondaga county by L. 1915, ch. 212.

§ 320-a. County system of roads.—* * * The employment of convict labor on roads so constructed shall be authorized and permitted, in the discretion of the superintendent of state prisons, upon the requisition of the county superintendent of highways. * * * [*Added by L. 1914, ch. 61 and am'd by L. 1915, ch. 556.*]

EMPLOYMENT OF PRISONERS IN COUNTY JAILS

THE COUNTY LAW, CHAPTER 11 OF THE CONSOLIDATED LAWS

§ 93. Food and labor.—Prisoners detained for trial, and those under sentence, shall be provided with a sufficient quantity of plain but wholesome food, at the expense of the county; but prisoners detained for trial may, at their own expense, and under the direction of the keeper, be supplied with any other proper articles of food. Such keeper shall cause each prisoner committed to his jail for imprisonment under sentence, to be constantly employed at hard labor when practicable, during every day, except Sunday, and the board of supervisors of the county, or judge of the county, may prescribe the kind of labor at which such prisoner shall be employed; and the keeper shall account, at least annually, with the board of supervisors of the county, for the proceeds of such labor. Such keeper may, with the consent of the board of supervisors of the county, or the county judge, from time to time, cause such of the convicts under his charge as are capable of hard labor, to be employed outside of the jail in the same, or in an adjoining county, upon such terms as may be agreed upon between the keepers and the officers, or persons, under whose direction such convicts shall be placed, subject to such regulations as the board or judge may prescribe; and the board of supervisors of the several counties are authorized to employ convicts under sentence to confinement in the county jails, in building and repairing penal institutions of the county and in building and repairing the highways in their respective counties or in preparing the materials for such highways for sale to and for the use of such counties or towns, villages, and cities therein; and to make rules and regulations for their employment; and the said board of supervisors are hereby authorized to cause money to be raised by taxation for the purpose of furnishing materials and carrying this provision into effect; and the courts of this state are hereby authorized to sentence convicts committed to detention in the county jails to such hard labor as may be provided for them by the boards of supervisors.

The labor of county prisoners is regulated also by the Prison Law, §§ 177, 185, p. 293, *ante*.

EMPLOYMENT OF PRISONERS IN NEW YORK CITY PENAL INSTITUTIONS**LAWS OF 1901, CHAPTER 466 (THE NEW YORK CITY CHARTER)**

§ 700. Employment of inmates; articles manufactured; cultivation of lands.— Every inmate of an institution under the charge of the commissioner, whose age and health will permit, shall be employed in quarrying or cutting stone, or in cultivating land under the control of the commissioner, or in manufacturing such articles as may be required for ordinary use in the institutions under the control of the commissioner, or for the use of any department of The City of New York, or in preparing and building sea walls upon islands or other places belonging to The City of New York upon which public institutions now are or may hereafter be erected, or in public works carried on by any department of the city, or at such mechanical or other labor as shall be found from experience to be suited to the capacity of the individual. The articles raised or manufactured by such labor shall be subject to the order of and shall be placed under the control of the commissioner, and shall be utilized in the institutions under his charge or in some other department of the city. All the lands under the jurisdiction of the commissioner not otherwise occupied or utilized, and which are capable of cultivation shall in the discretion of the commissioner be used for agricultural purposes.

§ 701. Detail of inmates to work in other departments.— At the request of any of the heads of the administrative departments of The City of New York (who are hereby empowered to make such request) the commissioner of correction may detail and designate any inmate or inmates of any of the institutions in the department of correction to perform work, labor and services in and upon the grounds and building or in and upon any public work or improvement under the charge of such other department. And such inmates when so employed shall at all times be under the personal oversight and direction of a keeper or keepers from the department of correction, but no inmate of any correctional institution shall be employed in any ward of any hospital except hospitals in penal institutions, while such ward is being used for hospital purposes. The provisions of this act or of law requiring advertisement for bids or proposals, or the awarding of contracts, for work to be done or supplies to be furnished for any of said departments shall not be applicable to public work which may be done or to the supplies which may be furnished under the provisions of the prison law.

§ 702. Hours of labor; discipline.— The hours of labor required of any inmate of any institution under the charge of the commissioner shall be fixed by the commissioner.

AGRICULTURAL LABOR
THE AGRICULTURAL LAW, CHAPTER 1 OF THE CONSOLIDATED LAWS

ARTICLE 12

Agricultural Statistics

Section 280. Collection and dissemination of statistics.

281. Information to be furnished by supervisors.

§ 280. Collection and dissemination of statistics.—The commissioner of agriculture may collect and disseminate such information relative to agriculture, and agricultural labor within the state, as he may deem wise for the purpose of promoting agricultural production within this state.

§ 281. Information to be furnished by supervisors.—Supervisors of the different towns and wards in this state shall furnish to the commissioner of agriculture upon request from him, upon blanks to be furnished by the said commissioner, such information as may be in their possession or may be obtained by them relative to agriculture, agricultural production and agricultural labor within their respective towns or wards. Such information shall be furnished to said commissioner within thirty days from the time it is asked for. The expense incurred by the several supervisors in furnishing such information shall be a town charge to be paid in the manner now provided by law for the payment of services and disbursements by such supervisor.

[300*]

RAILWAY LABOR

[See also Duties and Liabilities of Employers and Employees. p. 267, and Labor Law, §§ 6, 7 and 8, pp. 13, 14, *ante*]

THE SAFETY OF RAILWAY EMPLOYEES

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 71. Duties imposed.—It shall be the duty of every railroad corporation operating its road by steam:

1. To lay, in the construction of new and in the renewal of existing switches, upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenz, or split-point switch, or some other kind of safety switch, which shall prevent the derailment of a train, when such switch is misplaced or a switch interlocked with distant signals.

2. To erect and thereafter maintain such suitable warning signals at every road, bridge, or structure which crosses the railroad above the tracks, where such warning signals may be necessary, for the protection of employees on top of cars from injury.

3. To use upon every new freight car built or purchased for use, couplers which can be coupled and uncoupled automatically, without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

4. To attach to every car used for passenger transportation an automatic air-brake or other form of safety-power brake, applied from the locomotive, excepting cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour.

* * * * *

Every corporation, person or persons, operating such railroad, and violating any of the provisions of this section, except subdivision six, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that it shall omit or neglect to comply with any of such provisions. For every violation of the provisions of the sixth subdivision of this section every such corporation shall be liable to a penalty of twenty-five dollars for each offense.

§ 72. Inspection of locomotive boilers.—It shall be the duty of every railroad corporation operated by steam power, within this state, and of the directors, managers or superintendents of such railroad to cause thorough inspections to be made of the boilers and their appurtenances of all the steam locomotives which shall be used by such corporation or corporations, on said railroads. Said inspections shall be made, at least every three months under the direction and superintendence of said corporations, or the directors, managers or superintendents thereof, by persons of suitable qualifications and attainments to perform the services required of inspectors of boilers, and who from their knowledge of the construction and use of boilers and the appurtenances therewith connected, are able to form a reliable opinion of the strength, form, workmanship and suitability of boilers, to be employed without hazard of life, from imperfections in material, workmanship or arrangement of any part of such boiler and appur-

tenances. All such boilers so used shall comply with the following requirements: The boilers must be made of good and suitable materials; the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat shall be of proper dimensions; the safety valves, fusible plugs, low water glass * indicator gauge cocks and steam gauges, shall be of such construction, condition and arrangement that the same may be safely employed in the active service of the railroad corporation without peril to life; and each inspector shall satisfy himself by thorough examination that said requirements have been fully complied with. No boiler, nor any connection therewith shall be approved which is unsafe in its form, or dangerous from defects, workmanship or other cause. The person or persons who shall make the said inspections if he or they approve of the boiler or boilers and the appurtenances throughout, shall make and subscribe his or their name to a written or printed certificate which shall contain the number of each boiler inspected, the date of its inspection, the condition of the boiler inspected, and such details as may be required by the forms and regulations which shall be prescribed by the public service commission. Every certificate shall be verified by the oath of the inspector, and he shall cause such certificate or certificates to be filed in the office of the public service commission, within ten days after each inspection shall have been made, and also a copy thereof with the chief operating officer or employee of such railroad having charge of the operation of such locomotive boiler; a copy shall also be placed by such officer or employee in a conspicuous place in the cab connected with the locomotive boiler inspected, and there kept framed under glass. The public service commission shall have power, from time to time, to formulate rules and regulations for the inspection and testing of boilers as aforesaid, and may require the removal of incompetent inspectors of boilers under the provisions of this section. Copies of such rules and regulations shall be mailed to every corporation operating a railroad by steam in this state. If it shall be ascertained by such inspection and test or otherwise, that any locomotive boiler is unsafe for use, the same shall not again be used until it shall be repaired, and made safe, so as to comply with the requirements of this section. Every corporation, director, manager or superintendent operating such railroad and violating any of the provisions of this section shall be liable to a penalty, to be paid to the people of the state of New York, of one hundred dollars for each offense, and the further penalty of one hundred dollars for each day it or he shall omit or neglect to comply with said provisions, and the making or filing of a false certificate shall be a misdemeanor, and every inspector who wilfully certifies falsely touching any steam boiler, or any appurtenance thereto belonging, or any matter or thing contained or required to be contained in any certificate, signed and sworn to by him, shall be guilty of a misdemeanor. Any person, upon application to the secretary of said commission and on the payment of such reasonable fee as said commission may by rule fix, shall be furnished with a copy of any such certificate. The public service commission shall enforce the provisions of this section as to penalties.

* So in original.

§ 73. State inspector of locomotive boilers.—The office of state inspector of locomotive boilers is continued. Said inspector shall be appointed by the public service commissions and shall receive a compensation to be fixed by the commission, not exceeding three thousand dollars per year. He shall, under the direction of the commission, inspect boilers or locomotives used by railroad corporations operating steam railroads within the state, and may cause the same to be tested by hydrostatic test and shall perform such other duties in connection with the inspection and test of locomotive boilers as the commission shall direct. But this section shall not relieve any railroad corporation from the duties imposed by the preceding section.

§ 74. Care of steam locomotives; steam and water cocks; penalty.—It shall be the duty of every corporation operating a steam railroad, within this state, and of its directors, managers or superintendents, to cause the boiler of every locomotive used on such railroad to be washed out as often as once every thirty days, and to equip each boiler with and maintain thereon at all times, a water glass, showing the height of water in the boiler, having two valves or shut-off cocks, one at each end of such glass, which valves or shut-off cocks shall be so constructed that they can be easily opened and closed by hand; also to cause such valves or shut-off cocks and all gauge cocks or try-cocks attached to the boiler to be removed and cleaned whenever the boiler is washed out pursuant to the foregoing requirements of this section; also to keep all steam valves, cocks and joints, studs, bolts and seams in such repair that they will not at any time emit steam in front of the engineer, so as to obscure his vision. No locomotive shall hereafter be driven in this state unless the same is equipped and cared for in conformity with the provisions of this section; but nothing herein contained shall be construed to excuse the observance of any other requirement imposed by this chapter upon railroad corporations, their directors, officers, managers and superintendents. Every corporation, person or persons operating a steam railroad and violating any of the provisions of this section, shall be liable to a penalty of one hundred dollars for each offense, and the further penalty of ten dollars for each day that such violation shall continue. The public service commission shall enforce the provisions of this section.

§ 75. Public service commission may approve other safeguards.—The public service commission may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the commission, in place of any safeguard or device hereinbefore required by this article, which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

* * * * *

§ 77. Equipment of engines.—It shall be unlawful for any railroad company to use within the state on its line or lines any locomotive engine not equipped with a power driving wheel brake and appliances for operating the train brake system.

§ 78. Coal jimmies and caboose cars.—The use of cars known and designated as “coal jimmies” in any form and the use of any car as a caboose unless it shall have a suitable and safe platform at each end thereof, and the usual railing for the protection of persons using such platform, shall be unlawful within the state, except upon any railroad whose main line is less than fifteen miles in length and whose average grade exceeds two hundred feet to the mile. This section shall not be construed to authorize the interchange of such “coal jimmies” with, and the use thereof upon, railroads of more than fifteen miles in length or whose average grade is less than two hundred feet to the mile.

From and after the first day of July, nineteen hundred and twenty, it shall be unlawful for any corporation or individual to man, equip, or to use within the state on any railroad a caboose car, or car to serve the purpose of a caboose car, which shall be less than twenty-four feet in length exclusive of the platform, or which shall have a center constructive strength less than that of the fifty ton freight cars built according to master car builders’ standards. Such caboose or other equivalent car shall be constructed with steel center sills with two four-wheel trucks; with each platform not less than twenty-four inches wide, with proper guard rails, grab irons and steps, which shall be equipped with a suitable rod, board or other guard designed to prevent slipping from the car step. Each such car shall have a door at each end and shall be equipped with four separate sleeping berths not less than six feet and two inches in length. Each such car shall contain a properly furnished toilet room, sink, ice box, water cooler, clothing lockers, and with a cupola of sufficient size to accommodate at least two men. Whenever any caboose or other car used for like purpose now in use by any such railroad company shall, after this act goes into effect, be brought into any shop for general repairs it shall be unlawful to again put the same into use within this state, as a caboose or other car used for like purpose unless it be equipped as provided in this act.

This section shall not apply to cabooses or other equivalent cars used in the switching service or on trains operated wholly within twenty-five miles of yard limits.

Any violation of the provisions of this section shall be a misdemeanor, punishable by a fine of not less than one hundred dollars nor more than five hundred dollars for each separate offense. This penalty is in addition to that provided for in section eighty-one of this chapter. [*As am’d by L. 1913, ch. 497.*]

§ 79. Air-brakes.—It shall be unlawful for any railroad or other company to haul or permit to be hauled or used on its line or lines within this state any freight train that has not a sufficient number of cars in it so equipped with continuous power or air-brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

§ 80. Couplers.—It shall be unlawful for any railroad or other company to haul, or permit to be hauled or used, on its line or lines within the state, any freight car not equipped with couplers of the master car builders’ type, and coupling automatically by impact, and which can be uncoupled, except in cases of accident, without the necessity of men going between the ends of the cars.

§ 81. Violation of four preceding sections.— Any railroad or other company hauling or permitting to be hauled on its line or lines any train in violation of any of the provisions of the preceding four sections shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in an action to be brought by the public service commission in the name of the people and in the judicial district wherein the principal office of the company within the state is located.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1988. Guard posts; automatic couplers.— All corporations and persons other than employees, operating any steam railroad in this state:

1. Failing to cause guard posts to be placed in prolongation of the line of bridge trusses upon such railroad, so that in case of derailment, the posts and not the trusses shall receive the blow of the derailed locomotive or car, or in lieu thereof failing to cause guard rails to be placed within the running rails of its track, or such other safeguard as the public service commission shall order, for the same purpose; or [*Subd. 1 am'd by L. 1913, ch. 398.*]

2. Failing to equip all of their own freight cars, run and used in freight or other trains on such railroad, with automatic self-couplers, or running or operating on such railroad any freight car belonging to any such person or corporation, without having the same equipped, except in case of accident or other emergency, with automatic self-couplers, and except within the extended time allowed by the public service commission, in pursuance of law, for equipping such car with such couplers, is guilty of a misdemeanor, punishable by a fine of five hundred dollars for each offense.

PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS

§ 47. Investigation of accidents.— Each commission shall investigate the cause of all accidents on any railroad or street railroad within its district which result in loss of life or injury to persons or property, and which in its judgment shall require investigation. Every common carrier, railroad corporation and street railroad corporation is hereby required to give immediate notice to the commission of every accident happening upon any line of railroad or street railroad owned, operated, controlled or leased by it, within the territory over which such commission has jurisdiction in such manner as the commission may direct. Such notice shall not be admitted as evidence or used for any purpose against such common carrier, railroad corporation or street railroad corporation giving such notice in any suit or action for damages growing out of any matter mentioned in said notice.

See also § 66 authorizing the Commissions to order improvements necessary to protect persons employed in the manufacture and distribution of gas or electricity, and § 80 for similar power as to the manufacture and distribution of steam for heat or power.

FULL CREW LAW

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 54-a. Full crews for certain trains.— No person, corporation, trustee, receiver, or other court officer, shall run or operate, or cause to be run or operated, outside of the yard limits, on any railroad of more than fifty miles in length within this state, a freight train of more than twenty-five cars, unless

said train shall be manned with a crew of not less than one engineer, one fireman, one conductor and three brakemen; nor any train other than a freight train of five cars or more, without a crew of not less than one engineer, one fireman, one conductor and two brakemen, and if the train is a baggage train or a passenger train having a baggage car or baggage compartment without a baggageman in addition to said crew; nor any freight train of twenty-five cars or less without a crew of not less than one engineer, one fireman, one conductor and two brakemen; nor any light engine without a car or cars, without a crew of not less than one engineer, one fireman and one conductor or brakeman. Each separate violation of the provisions of this section shall be a misdemeanor punishable by a fine of not less than one hundred dollars nor more than five hundred dollars. Each train or light engine run in violation of the provisions of this section shall be deemed to be a separate offense. [Added by L. 1913, ch. 146.]

ENCLOSURE OF STREET CAR PLATFORMS

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 194. Protection of employees.—Every corporation operating a street surface railroad in this state, except such as operate a railroad or railroads either in the borough of Manhattan or Brooklyn, in the city of New York, shall cause the front and rear platforms of every passenger car propelled by electricity, cable or compressed air, operated on any division of such railroad which extends in or between towns or outside of city limits, during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the fronts of the platforms to the fronts of the hoods, so as to afford protection to any person stationed by such corporation on such platforms to perform duties in connection with the operation of such cars. Every corporation or person using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car so used and operated, to be collected in an action brought by the public service commission and to be paid to the treasurer of the state of New York, or in a suit by the attorney of the municipality in which the violation of the provisions of this section occurs, to be paid into the treasury of such municipality.

§ 195. Platforms on new cars, how constructed.—All street surface railroad passenger cars purchased, built or rebuilt after the first day of December, nineteen hundred and four, and operated in the state of New York on and after said date, except those owned by any company operating either in the borough of Manhattan or Brooklyn, in the city of New York, shall be constructed in accordance with the provisions of the preceding section.

§ 196. Protection to employees in the counties of Albany and Rensselaer.—Every corporation operating a street surface railroad in the counties of Albany and Rensselaer shall cause the front and rear platforms of every car propelled by electricity, cable or compressed air, during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the front and at least one side of the platform to the hood, so as to afford protection to any person stationed by such corporation on such platforms to perform duties in connection with the operation of such cars. Platforms on cars on such street surface

railroads used more than one mile outside the limits of a city shall be completely inclosed from platform to hood. Every corporation using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car so used and operated, to be collected by the people to the use of the poor of the county in which such corporation has its principal office, in an action brought by the public service commission or the district attorney of such county. The supreme court may, on the application of a citizen, direct the district attorney to bring such action.

§ 197. Protection of employees in the counties of Kings and Queens.— Every corporation operating a street surface railroad in the counties of Kings or Queens, shall cause the front and rear platforms of every passenger car propelled by electricity, cable or compressed air, operated on any division of such railroad during the months of December, January, February and March, except cars attached to the rear of other cars, to be inclosed from the fronts of the platforms to the fronts of the hoods so as to afford protection to any person stationed by such corporation on such platforms to perform duties connected with the operation of such cars. Every corporation or person using and operating a car in violation of this section shall be liable to a penalty of twenty-five dollars per day for each car used and operated, to be collected in an action brought by the public service commission and to be paid to the treasurer of the city of New York, or in a suit by the district attorney of the counties of Kings or Queens to be paid into the treasury of the city of New York.

QUALIFICATIONS OF ENGINEERS AND TELEGRAPHERS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1982. Person unable to read not to act or be employed as engineer.— Any person unable to read the time-tables of a railroad and ordinary handwriting, who acts as an engineer or runs a locomotive or train on any railroad in this state; or any person who, in his own behalf, or in the behalf of any other person or corporation, knowingly employs a person so unable to read to act as such engineer or to run any such locomotive; or who employs a person as a telegraph operator who is under the age of eighteen years, or who has less than one year's experience in telegraphing, to receive or transmit a telegraphic message or train order for the movement of trains, is guilty of a misdemeanor.

QUALIFICATIONS OF STREET RAILWAY CONDUCTORS, MOTORMEN, ETC.

THE RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 63. Persons employed as drivers, conductors, motormen or gripmen.— Any railroad corporation may employ any inhabitant of the state, of the age of twenty-one years, not addicted to the use of intoxicating liquors, as a car driver, conductor, motorman or gripman, or in any other capacity, if fit and competent therefor. All applicants for positions as motormen or gripmen on any street surface railroad in this state shall be subjected to a thorough examination by the officers of the corporation as to their habits, physical ability and intelligence. If this examination is satisfactory, the applicant shall be placed in the shop or power house where he can be made

familiar with the power and machinery he is about to control. He shall then be placed on a car with an instructor, and when the latter is satisfied as to the applicant's capability for the position of motorman or gripman, he shall so certify to the officers of the company, and, if appointed, the applicant shall first serve on the lines of least travel. Any violation of the provisions of this section shall be a misdemeanor.

EMPLOYMENT OF INTEMPERATE PERSONS ON RAILWAYS AND STEAMBOATS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1913. **Employment by common carrier of person addicted to intoxication.**—Any person or officer of an association or corporation engaged in the business of conveying passengers or property for hire, who shall employ in the conduct of such business, as an engineer, fireman, conductor, switch-tender, train dispatcher, telegrapher, commander, pilot, mate, fireman or in other like capacity, so that by his neglect of duty, the safety and security of life, person or property so conveyed might be imperiled, any person who habitually indulges in the intemperate use of liquors, after notice that such person has been intoxicated, while in the active service of such person, association or corporation, shall be guilty of a misdemeanor.

§ 1984. **Intoxication or other misconduct of railroad or steamboat employees.**—1. Any person who, being employed upon any railway as engineer, conductor, baggagemaster, brakeman, switch-tender, fireman, bridge-tender, flagman, signal man, or having charge of stations, starting, regulating or running trains upon a railroad, or, being employed as captain, engineer or other officer of a vessel propelled by steam, is intoxicated while engaged in the discharge of any such duties; or,

2. An engineer, conductor, brakeman, switch-tender, or other officer, agent or employee of any railroad corporation, who wilfully violates or omits his duty as such officer, agent or employee, by which human life or safety is endangered, the punishment of which is not otherwise prescribed,

Is guilty of a misdemeanor.

See also §§ 322, 323, of the Highway Law (ch. 25 of the Consolidated Laws) forbidding the employment of persons addicted to drunkenness by owners of public carriages.

MISCONDUCT OF OFFICIALS OR EMPLOYEES ON ELEVATED RAILROADS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1983. **Misconduct of officials or employees on elevated railroads.**—Any conductor, brakeman, or other agent or employee of an elevated railroad, who:

1. Starts any train or car of such railroad, or gives any signal or order to any engineer or other person to start any such train or car, before every passenger therein who manifests an intention to depart therefrom by arising, or moving toward the exit thereof, has departed therefrom; or before every passenger on the platform or station at which the train has stopped, who manifests a desire to enter the train, has actually boarded or entered the same, unless due notice is given by an authorized employee of such railroad that the train is full, and that no more passengers can then be received; or,

2. Obstructs the lawful ingress or egress of a passenger to or from any such car; or,

3. Opens a platform gate of any such car while the train is in motion, or starts such train before such gate is firmly closed,

Is guilty of a misdemeanor.

Formerly Penal Code, § 419.

WEARING OF UNIFORMS AND BADGES

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1989. Inciting railroad employees not to wear uniform; unauthorized wearing of uniform.—A person who:

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or,

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or,

3. Wears the uniform designated by a railway company without authority, Is guilty of a misdemeanor.

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 65. Conductors and employees must wear badges.—Every conductor and employee of a railroad corporation employed on a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office or employment, and the initial letters of the corporation employing him. No conductor or collector without such badge shall demand or receive from any passenger any fare or ticket or exercise any of the powers of his employment. No officer or employee without such badge shall meddle or interfere with any passenger, his baggage or property.

CONDUCTORS AND TRAINMEN AS POLICEMEN

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 88. When conductors and brakemen may be policemen.—The governor may appoint any conductor or brakeman on any train conveying passengers on any steam railroad in this state, a policeman, with all the powers of a policeman in cities and villages, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the land or property of the corporation owning or operating such railroad; and he may also appoint, on the application of any such corporation, or of any steamboat company, such additional policemen, designated by it, as he may deem proper, who shall have the same powers. Every such policeman shall within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file it with his commission in the office of the secretary of state. The post-office address of the person appointed shall appear in the commission, and whenever such address is changed the person appointed shall file with

the governor a statement of the new address. Every such policeman shall when on duty wear a metallic shield with the words "railroad police" or "steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, which shall always be worn in plain view, except when employed as a detective. The compensation of every such policeman shall be such as may be agreed upon between him and the corporation for which he is appointed, and shall be paid by the corporation. When any corporation shall no longer require the services of any such policeman it may file notice to that effect in the office in which notice of his appointment was originally filed, and thereupon such appointment shall cease and be at an end. The governor may also at pleasure revoke the appointment of any such policeman by filing a revocation thereof in the office of the secretary of state and mailing a notice of such filing to the corporation for which he was appointed, and also to the person whose appointment is revoked, at his last post-office address as the same appears in the commission or the latest statement thereof on file. If such person thereafter, knowing of such revocation or having in any manner received notice thereof, exercises or attempts to exercise any of the powers of a policeman, under this section, he shall be guilty of a misdemeanor; and the filing and mailing of such notice, as above provided, shall be presumptive evidence that such person knew of the revocation. [As am'd by L. 1911, ch. 817.]

PROVIDING FOR BAIL OF RAILWAY EMPLOYEES IN CASES OF ACCIDENT

CODE OF CRIMINAL PROCEDURE

§ 554-a. Bail of certain railroad employees.— Whenever a person employed as an engineer, fireman, motorman, conductor, trainman or otherwise, on a train or car of a steam, elevated or street surface railroad, is arrested in any city on a criminal charge, arising from an accident in connection with the operation of such train or car, resulting in an injury or death to a person or injury to property, such engineer, fireman, motorman, conductor, trainman or other employee, shall be immediately taken before a magistrate, if one is accessible, and otherwise, before a captain or sergeant of police, or acting sergeant of police, or lieutenant of police, in charge of a police station in such city, and be given an opportunity to be admitted to bail. Such bail shall be taken in the same manner, so far as practicable, as is provided by section five hundred and fifty-four of this code, for the taking of bail in case of misdemeanors by a captain or sergeant of police, or acting sergeant of police, or lieutenant of police, in a city or village, except that the amount of bail shall be fixed by such officer at not exceeding one thousand dollars, and except that the undertaking shall provide for the appearance of the defendant before the magistrate, coroner, or other officer, who, except for this section, would be authorized to take such bail. Such officer may, however, in his discretion, instead of exacting bail, release such employee on his own recognizance, conditional for his appearance as above provided in case an undertaking is required. [Added by L. 1903, ch. 614; am'd by L. 1912, ch. 99.]

**UNCLAIMED ARTICLES FOUND IN PUBLIC VEHICLES TO BE SOLD FOR
BENEFIT OF EMPLOYEES' ASSOCIATION**

RAILROAD LAW, CHAPTER 49 OF THE CONSOLIDATED LAWS

§ 199. Sale of unclaimed property.—It shall be the duty of every street surface railroad corporation doing business in this state, and of every corporation engaged in this state in the business of carrying passengers for hire in cabs, coaches, or other similar vehicles or of letting such vehicles for hire, or in the business of operating a line of stages or omnibuses, which shall have unclaimed property left in its cars, cabs, coaches, stages or other similar vehicles, to ascertain if possible, the owner or owners of such property, and to notify such owner or owners of the fact by mail as soon as possible, after such property comes into its possession. Every such corporation which shall have such property not perishable, in its possession for the period of three months, may sell the same at public auction, after giving notice to that effect, by one publication, at least ten days prior to the sale, in a daily newspaper published in the city or village in which such sale is to take place, of the time and place at which such sale will be held, and such sale may be adjourned from time to time until all the articles offered for sale are sold. All perishable property so left, may be sold by any such corporation without notice, as soon as it can be, upon the best terms that can be obtained.

§ 200. Disposition of proceeds.—All moneys arising from the sale of any such unclaimed property, after deducting charges for storage and expenses of sale, shall be paid by any such corporation to the treasurer of any association, composed of the employees of such corporation, having for its object the pecuniary assistance of its members in case of disability caused by sickness or accident, for the use and benefit of such association and its members; and where no such association of the employees of any such corporation is in existence at the time of any such sale, such moneys shall be paid over to the county treasurer of the county or if in a city, to the chief fiscal officer thereof, in which such sale took place for the benefit of such city or county.

Compare Railroad Law, § 68, relating to sale of "Unclaimed freight and baggage."

FREE TRANSPORTATION OR REDUCED RATES FOR EMPLOYEES

PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS

§ 33. * * *. 2. No common carrier subject to the provisions of this chapter shall, directly or indirectly, issue or give any free ticket, free pass or free transportation for passengers or property between points within this state, except to its officers, employees, agents, surgeons, physicians, attorneys-at-law, and their families; to ministers of religion, officers and employees of railroad young men's christian associations, inmates of hospitals, charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; and to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge, and boards of managers of such homes; to necessary care-

takers of property in transit; to employees of sleeping-car companies, express companies, telegraph and telephone companies doing business along the line of the issuing carrier; to railway mail service employees, post-office inspectors, mail carriers in uniform, customs inspectors and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation or proceeding in which the common carrier is interested, persons injured in accidents or wrecks and physicians and nurses attending such person; to the carriage free or at reduced rates of persons or property for the United States, state or municipal governments, or of property to or from fairs and expositions for exhibit thereat. [*Subd. 2 am'd by L. 1914, ch. 38; and L. 1914, ch. 116.*]

3. Nothing in this chapter shall be construed to prohibit the interchange of free or reduced transportation between common carriers of or for their officers, agents, employees, attorneys, surgeons, and their families, and their household and personal effects, nor to prohibit any common carrier from carrying passengers or property free, with the object of providing relief in cases of general epidemic, pestilence or other calamitous visitation; nor to prohibit any common carrier from transporting persons or property as incident to or connected with contracts for construction, operation or maintenance, and to the extent only that such free transportation is provided for in the contract for such work, nor to prevent any common carrier from transporting children under five years of age free. Provided further, that nothing in this chapter shall prevent the issuance of mileage, excursion, school or family commutation, commutation passenger tickets, half fare tickets for the transportation of children under twelve years of age, or any other form of reduced rate passenger tickets, or joint interchangeable mileage tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand miles or more. But before any common carrier subject to the provision of this chapter shall issue any such mileage, excursion, school or family commutation, commutation, half fare, or any other form of reduced rate passenger tickets, or joint interchangeable mileage ticket, with special privileges as aforesaid, it shall file with the commission copies of the tariffs of rates, fares or charges on which such tickets are to be based, together with the specifications of the amount of free baggage permitted to be carried under such joint interchangeable mileage ticket, in the same manner as common carriers are required to do with regard to other rates by this chapter. Nor shall anything in this chapter prevent the issuance of passenger transportation in exchange for advertising space in newspapers at full rates.

The term "employees" as used in subdivisions two and three of this section, when referring to employees of a common carrier, shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier and ex-employees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in such subdivisions shall include the families of those persons named in this proviso, also the families of persons killed, and the widows during widowhood and minor children during minority of persons who died, while in the service of such common carrier. [*Subd. 3, am'd by L. 1914, ch. 38.*]

COMPLAINTS TO PUBLIC SERVICE COMMISSIONS

PUBLIC SERVICE COMMISSIONS LAW, CHAPTER 48 OF THE CONSOLIDATED LAWS

§ 45. General powers and duties of commissions in respect to common carriers, railroads and street railroads.— * * * 2. Each commission shall have the general supervision of all common carriers, railroads, street railroads, railroad corporations and street railroad corporations within its jurisdiction as hereinbefore defined, and shall have power to and shall examine the same and keep informed as to their general condition, their capitalization, their franchises and the manner in which their lines and property, owned, leased, controlled or operated, are managed, conducted and operated, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with all provisions of law, orders of the commission and charter requirements. Each commission shall have power, either through its members or responsible engineers or inspectors duly authorized by it, to enter in or upon and to inspect the property, equipment, buildings, plants, factories, power-houses and offices of any of such corporations or persons, including the right for such inspection purpose to ride upon any freight locomotive or train or any passenger locomotive or train while in service; and to have upon reasonable notice the use of an inspection locomotive or special locomotive and inspection car for a physical inspection once annually of all the lines and stations of each common carrier under its supervision; and to the extent that such facilities for inspection involve transportation each commissioner and each such employee shall pay the published one-way fare established by the common carrier for the transportation of persons by regular passenger trains over the distance covered by such inspection. The cost of such transportation, if the commission so elects, may be paid upon bill rendered to the commission after the transportation has been furnished and the amount thereof ascertained.

3. Each commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any person or corporation subject to its supervision, and by subpoena duces tecum to compel production thereof. In lieu of requiring production of originals by subpoena duces tecum, the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers or parts thereof to be filed with it.

* * * * *

§ 48. Investigations by commission.— 1. Each commission may, of its own motion, investigate or make inquiry, in a manner to be determined by it, as to any act or thing done or omitted to be done by any common carrier, railroad corporation or street railroad corporation, subject to its supervision, and the commission must make such inquiry in regard to any act or thing done or omitted to be done by any such common carrier, railroad corporation or street railroad corporation in violation of any provision of law or in violation of any order of the commission.

2. Complaints may be made to the proper commission by any person or corporation aggrieved, by petition or complaint in writing setting forth any thing or act done or omitted to be done by any common carrier, railroad corporation or street railroad corporation in violation, or claimed to be in vio-

lation, of any provision of law or of the terms and conditions of its franchise or charter or of any order of the commission. Upon the presentation of such a complaint the commission shall cause a copy thereof to be forwarded to the person or corporation complained of, which may be accompanied by an order, directed to such person or corporation, requiring that the matters complained of be satisfied, or that the charges be answered in writing within a time to be specified by the commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit, or to permit, the violation of law, franchise or order charged in the complaint, and shall notify the commission of that fact before the time allowed for answer, the commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied, and it shall appear to the commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper, and take such action within its powers as the facts justify.

3. Whenever either commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a common carrier, railroad corporation or street railroad corporation under this section it shall be its duty to make and file an order either dismissing the petition or complaint or directing the common carrier, railroad corporation or street railroad corporation complained of to satisfy the cause of complaint in whole or to the extent which the commission may specify and require.

INDUSTRIAL EDUCATION

THE APPRENTICE SYSTEM

[Apprenticeship is regulated by article 8 of the Domestic Relations Law, following, which is to be enforced by the commissioner of labor (see § 22 of the Labor Law, p. 24, *ante*). The Penal Law makes it a misdemeanor to take an apprentice without the consent of the parent or guardian (§ 1275, p. 222, *ante*), and the Code of Criminal Procedure (Title IX of Part VI) prescribes the proceedings respecting masters, apprentices and servants.]

DOMESTIC RELATIONS LAW, CHAPTER 14 OF THE CONSOLIDATED LAWS

ARTICLE 8

Apprentices and Servants

Section 120. Definitions; effect of article.

121. Contents of indenture.

122. Indenture by minor; by whom signed.

123. Indenture by poor officers; by whom signed.

124. Binding out children by charitable corporation; indenture; by whom signed.

125. Penalty for failure of master or employer to perform provisions of indenture.

126. Assignment of indenture on death of master or employer.

127. Contract with apprentice in restraint of trade void.

§ 120. Definitions; effect of article.— The instrument whereby a minor is bound out to serve as a clerk or servant in any trade, profession or employment, or is apprenticed to learn the art or mystery of any trade or craft, is an indenture.

Every indenture made in pursuance of the laws repealed by this chapter shall be valid hereunder, but hereafter a minor shall not be bound out or apprenticed except in pursuance of this article.

§ 121. Contents of indenture.— Every indenture must contain:

1. The names of the parties;

2. The age of the minor as nearly as can be ascertained, which age on the filing of the indenture shall be taken *prima facie* to be the true age;

3. A statement of the nature of the service or employment to which the minor is bound or apprenticed;

4. The term of service or apprenticeship, stating the beginning and end thereof;

5. An agreement that the minor will not leave his master or employer during the term for which he is indentured;

6. An agreement that suitable and proper board, lodging and medical attendance for the minor during the continuance of the term shall be provided, either by the master or employer, or by the parent or guardian of the apprentice;

7. A statement of every sum of money paid or agreed to be paid in relation to the service;

8. If such minor is bound as an apprentice to learn the art or mystery of any trade or craft, an agreement on the part of the employer to teach, or cause to be carefully and skillfully taught, to such apprentice, every branch

of the business to which such apprentice is indentured, and that at the expiration of such apprenticeship he will give to such apprentice a certificate, in writing, that such apprentice has served at such trade or craft a full term of apprenticeship specified in such indenture;

9. If a minor is indentured by the poor officers of a county, city or town, or by the authorities of an orphan asylum, penal or charitable institution, an agreement that the master or employer will cause such child to be instructed in reading, writing and the general rules of arithmetic, and that at the expiration of the term of service he will give to such minor a new bible.

Every such indenture shall be filed in the office of the county clerk of the county where the master or employer resides.

§ 122. Indenture by minor; by whom signed.—Any minor may, by the execution of the indenture provided by this article, bind himself or herself:

1. As an apprentice to learn the art or mystery of any trade or craft for a term of not less than three nor more than five years;

2. As a servant or clerk in any profession, trade or employment for a term of service not longer than the minority of such minor, unless such indenture be made by a minor coming from a foreign country, for the purpose of paying his passage, when such indenture may be made for a term of one year although such term may extend beyond the time when such person will be of full age.

An indenture made in pursuance of this section must be signed,

1. By the minor;

2. By the father of the minor unless he is legally incapable of giving consent or has abandoned his family;

3. By the mother of the minor unless she is legally incapable of giving consent;

4. By the guardian of the person of the minor, if any;

5. If there be neither parents nor guardian of the minor legally capable of giving consent, by the county judge of the county, or a justice of the supreme court of the district, in which the minor resides; whose consent shall be necessary to the binding out or apprenticing in pursuance of this section of a minor coming from a foreign country or of the child of an Indian woman, in addition to the other consents herein provided;

6. By the master or employer.

§ 123. Indenture by poor officers; by whom signed.—The poor officers of a municipal corporation may, by an execution of the indenture provided by this article, bind out or apprentice any minor whose support shall become chargeable to such municipal corporation.

In such case the indenture shall be signed,

1. By the officer or officers binding out or apprenticing the minor;

2. By the master or employer;

3. By the county judge of the county, if the support of such child was chargeable to the county, by two justices of the peace, if chargeable to the town, or by the mayor and aldermen or any two of them, if chargeable to the city.

The poor officers by whom a child is indentured and their successors in office shall be guardians of every such child and shall inquire into the treatment thereof, and redress any grievance as provided by law.

§ 124. Binding out children by charitable corporation; indenture; by whom signed.—An orphan asylum or charitable institution, incorporated for the care of orphans, friendless or destitute children, may bind out as an apprentice, clerk or servant, an indigent or poor child by an indenture in writing. Such child must have been absolutely surrendered to the care and custody of such asylum or institution in pursuance of this chapter, or have been placed therein as a poor person, as provided in section fifty-six of the poor law, or have been left to the care of such asylum or institution with no provision by the parent, relative or legal guardian of such child, for its support, for a period of one year then next preceding. Such indenture shall bind such child, if a male, for a period which shall not extend beyond his twenty-first year, and if a female, for a period which shall not extend beyond her eighteenth year. Every such child shall, when practicable, be bound out or apprenticed to persons of the same religious faith as the parents of such child. The indenture shall in such case be signed:

1. In the corporate name of such institution by the officer or officers thereof authorized by the directors to sign the corporate name to such instrument, and shall be sealed with the corporate seal;

2. By the master or employer.

Such indenture may also be signed by the child, if over twelve years of age.

§ 125. Penalty for failure of master or employer to perform provisions of indenture.—If a master or employer to whom a minor has been indentured shall fail, during the term of service, to perform any provision of such indenture on his part, such minor or any person in his behalf may bring an action against the master or employer to recover damages for such failure; and if satisfied that there is sufficient cause, the court shall direct such indenture to be canceled, and may render judgment against such master or employer for not to exceed one thousand nor less than one hundred dollars, to be collected and paid over for the use and benefit of such minor to the corporation or officers indenturing such minor, if so indentured, and otherwise, to the parents or guardian of the child.

§ 126. Assignment of indenture on death of master or employer.—On the death of a master or employer to whom a person is indentured by the poor officers of a municipal corporation, the personal representatives of the master or employer may, with the written and acknowledged consent of such person, assign such indenture and the assignee shall become vested with all the rights and subject to all the liabilities of his assignor, or if such consent be refused, the assignment may be made with like effect by the county judge of the county, on proof that fourteen days' notice of the application therefor has been given to the person indentured, to the officers by whom indentured, and to his parent or guardian, if in the country.

§ 127. Contract with apprentice in restraint of trade void.—No person shall accept from any apprentice any agreement or cause him to be bound by oath, that after his term of service expires he will not exercise his trade, profession or employment in any particular place; nor shall any person exact from any apprentice, after his term of service expires, any money or other thing, for exercising his trade, profession or employment in any place. Any security given in violation of this section shall be void; and any money paid.

or valuable thing delivered, for the consideration, in whole or in part, of any such agreement or exaction, may be recovered by the person paying the same with interest; and every person accepting such agreement, causing such obligation to be entered into, or exacting money or other thing, is also liable to the apprentice in the penalty of one hundred dollars, which may be recovered in a civil suit.

INDUSTRIAL TRAINING IN THE PUBLIC SCHOOLS

EDUCATION LAW, CHAPTER 16 OF THE CONSOLIDATED LAWS (AS AMENDED BY L. 1910 CH. 140)

ARTICLE 22

General Industrial Schools, Trade Schools, and Schools of Agriculture, Mechanic Arts and Home Making

Section 600. General industrial schools, trade schools, and schools of agriculture, mechanic arts and home making, may be established in cities.

601. Such schools may be established in union free school districts.

602. Appointment of an advisory board.

603. Authority of the board of education over such schools.

604. State aid for general industrial schools, trade schools, and schools of agriculture, mechanic arts and home making.

605. Application of such moneys.

606. Annual estimate by board of education and appropriations by municipal and school districts.

607. Courses in schools of agriculture for training of teachers.

§ 600. General industrial schools, trade schools and schools of agriculture, mechanic arts and home making, may be established in cities.—The board of education of any city, and in a city not having a board of education the officer having the management and supervision of the public school system, may establish, acquire, conduct and maintain as a part of the public school system of such city the following:

1. General industrial schools open to pupils who have completed the elementary school course or who have attained the age of fourteen years, and

2. Trade schools open to pupils who have attained the age of sixteen years and have completed either the elementary school course or a course in the above mentioned general industrial school or who have met such other requirements as the local school authorities may have prescribed; and [*Subd. 2 am'd by L. 1913, ch. 747.*]

3. Schools of agriculture, mechanic arts and home making, open to pupils who have completed the elementary school course or who have attained the age of fourteen, or who have met such other requirements as the local school authorities may have prescribed; and

4. Part time or continuation schools in which instruction shall be given in the trades and in industrial, agricultural and home making subjects, and which shall be open to pupils over fourteen years of age who are regularly and lawfully employed during a part of the day in any useful employment or service, which subjects shall be supplementary to the practical work carried on in such employment or service. [*Subd. 4 added by L. 1913, ch. 747.*]

5. Evening vocational schools in which instruction shall be given in the trades and in industrial, agricultural and home making subjects, and which shall be open to pupils over sixteen years of age, who are regularly and

lawfully employed during the day and which provide instruction in subjects related to the practical work carried on in such employment; but such evening vocational schools providing instruction in home making shall be open to all women over sixteen years of age who are employed in any capacity during the day.

The word "school," as used in this article, shall include any department or course of instruction established and maintained in a public school for any of the purposes specified in this section. [*Subd. 5 added by L. 1913, ch. 747.*]

§ 601. Such schools may be established in union free school districts.—The board of education of any union free school district shall also establish, acquire and maintain such schools for like purposes whenever such schools shall be authorized by a district meeting. The trustee or board of trustees of a common school district may establish a school or a course in agriculture, mechanic arts and home making, when authorized by a district meeting. [*As am'd by L. 1913, ch. 747.*]

§ 602. Appointment of an advisory board.—1. The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education shall appoint an advisory board of five members representing the local trades, industries, and occupations. In the first instance two of such members shall be appointed for a term of one year and three of such members shall be appointed for a term of two years. Thereafter as the terms of such members shall expire the vacancies caused thereby shall be filled for a full term of two years. Any other vacancy occurring on such board shall be filled by the appointing power named in this section for the remainder of the unexpired term.

2. It shall be the duty of such advisory board to counsel with and advise the board of education or the officer having the management and supervision of the public school system in a city not having a board of education in relation to the powers and duties vested in such board or officer by section six hundred and three of this chapter.

§ 603. Authority of the board of education over such schools.—The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education and the board of education in a union free school district in which city or district a general industrial school, a trade school, a school of agriculture, mechanic arts and home making, or a part time or continuation school, or an evening vocational school is established as provided in this article, is vested with the same power and authority over the management, supervision and control of such school and the teachers or instructors employed therein as such board or officer now has over the schools and teachers under their charge. Such boards of education or such officer shall also have full power and authority:

1. To employ competent teachers or instructors.
2. To provide proper courses of study.
3. To purchase or acquire sites and grounds and to purchase, acquire, lease or construct and to repair suitable shops or buildings and to properly equip the same.
4. To purchase necessary machinery, tools, apparatus and supplies. [*Section 603, am'd by L. 1913, ch. 747.*]

§ 604. State aid for general industrial schools, trade schools, and schools of agriculture, mechanic arts and home making.— 1. The commissioner of education in the annual apportionment of the state school moneys shall apportion therefrom to each city and union free school district for each general industrial school, trade school, part time or continuation school or evening vocational school, maintained therein for thirty-six weeks during the school year and employing one teacher whose work is devoted exclusively to such school, and having an enrollment of at least fifteen pupils and maintaining an organization and a course of study, and conducted in a manner approved by him, a sum equal to two-thirds of the salary paid to such teacher, but not exceeding one thousand dollars.

2. He shall also apportion in like manner to each city, union free school district or common school district for each school of agriculture, mechanic arts and home making, maintained therein for thirty-six weeks during the school year, and employing one teacher whose work is devoted exclusively to such school, and having an enrollment of at least fifteen pupils and maintaining an organization and course of study and conducted in a manner approved by him, a sum equal to two-thirds of the salary paid to such teacher. Such teacher may be employed for the entire year, and during the time that the said school is not open shall be engaged in performing such educational services as may be required by the board of education or trustees, under regulations adopted by the commissioner of education. Where a contract is made with a teacher for the entire year and such teacher is employed for such period, as herein provided, the commissioner of education shall make an additional apportionment to such city or district of the sum of two hundred dollars. But the total amount apportioned in each year on account of such teacher shall not exceed one thousand dollars.

3. The commissioner of education shall also make an additional apportionment to each city and union free school district for each additional teacher employed exclusively in the schools mentioned in the preceding subdivisions of this section for thirty-six weeks during the school year, a sum equal to one-third of the salary paid to each such additional teacher, but not exceeding one thousand dollars for each teacher.

4. The commissioner of education, in his discretion, may apportion to a district or city maintaining such schools or employing such teachers for a shorter time than thirty-six weeks, or for a less time than a regular school day, an amount prorata to the time such schools are maintained or such teachers are employed. This section shall not be construed to entitle manual training high schools or other secondary schools maintaining manual training departments, to an apportionment of funds herein provided for.

Any person employed as teacher as provided herein may serve as principal of the school in which the said industrial or trade school or course, or school or course of agriculture, mechanic arts and home making, is maintained. [Section 604 am'd by L. 1913, ch. 747.]

§ 605. Application of such moneys.— All moneys apportioned by the commissioner of education for schools under this article shall be used exclusively for the payment of the salaries of teachers employed in such schools in the

city or district to which such moneys are apportioned. [*As am'd by L. 1913, ch. 747.*]

§ 606. Annual estimate by board of education and appropriations by municipal and school districts.— 1. The board of education of each city or the officer having the management and supervision of the public school system in a city not having a board of education shall file with the common council of such city, within thirty days after the commencement of the fiscal year of such city, a written itemized estimate of the expenditures necessary for the maintenance of its general industrial schools, trade schools, schools of agriculture, mechanic arts and home making, part time or continuation schools or evening vocational schools, and the estimated amount which the city will receive from the state school moneys applicable to the support of such schools. The common council shall give a public hearing to such persons as wish to be heard in reference thereto. The common council shall adopt such estimate and, after deducting therefrom the amount of state moneys applicable to the support of such schools, shall include the balance in the annual tax budget of such city. Such amount shall be levied, assessed and raised by tax upon the real and personal property liable to taxation in the city at the time and in the manner that other taxes for school purposes are raised. The common council shall have power by a two-thirds vote to reduce or reject any item included in such estimate. [*Subd. 1 am'd by L. 1913, ch. 747.*]

2. The board of education in a union free school district which maintains a general industrial school, trade school, a school of agriculture, mechanic arts and home making, part time or continuation schools or evening vocational schools, shall include in its estimate of expenses pursuant to the provisions of sections three hundred and twenty-three and three hundred and twenty-seven of this chapter the amount that will be required to maintain such schools after applying toward the maintenance thereof the amount apportioned therefor by the commissioner of education. Such amount shall thereafter be levied, assessed and raised by tax upon the taxable property of the district at the time and in the manner that other taxes for school purposes are raised in such district. [*Subd. 2 am'd by L. 1913, ch. 747.*]

§ 607. Courses in schools of agriculture for training of teachers.— The state schools of agriculture at Saint Lawrence University, at Alfred University and at Morrisville may give courses for the training of teachers in agriculture, mechanic arts, domestic science or home making, approved by the commissioner of education. Such schools shall be entitled to an apportionment of money as provided in section six hundred and four of this chapter for schools established in union free school districts. Graduates from such approved courses may receive licenses to teach agriculture, mechanic arts and home making in the public schools of the state, subject to such rules and regulations as the commissioner of education may prescribe.

SCHOOLS IN LABOR CAMPS

EDUCATION LAW, CHAPTER 16 OF THE CONSOLIDATED LAWS (AS AMENDED BY
L. 1910, CH. 140)

ARTICLE 6-A

[Added by L. 1913, ch. 176]

Temporary School Districts

Section 175. Establishment of temporary school districts.

176. Organization of districts; officers.

177. Maintenance of schools; teachers.

178. Payment of expenses; gifts and contributions.

179. Regulations of commissioner of education.

§ 175. Establishment of temporary school districts.—Temporary school districts may be established outside of cities and union free school districts and public schools shall be maintained therein as hereinafter provided. Such districts may be established whenever any considerable number of persons shall have been congregated in camps or other places of temporary habitation, who are engaged in the construction of public works by, or under contract with, the state, or in the construction of public works or improvements by or under contract with any municipality. Such temporary districts shall be established by order of the district superintendent of schools of the supervisory district within which such camps or other places of temporary habitation are located, subject to the approval of the commissioner of education. Such order shall be filed in the state education department and if the public works or improvements are being constructed by a municipality, a copy thereof shall be filed in the office of the officer or board of the city under whose direction they are being constructed. When so established such districts shall be entitled to share in the apportionment of public money as in the case of other school districts, except that each district quota shall be one hundred and twenty-five dollars. The money so apportioned shall be paid to the treasurer of the district and be applied in the payment of teachers' salaries.

§ 176. Organization of districts; officers.—Each of such districts shall have a trustee who shall be appointed by the district superintendent of schools, and a district clerk and treasurer to be appointed by the trustee. Each of such officers shall serve during the continuance of the camp or other place of temporary habitation, unless sooner removed by the district superintendent. The treasurer shall give a bond to the people of the state, in an amount to be determined by the district superintendent, and with sureties approved by him, conditioned for the proper disbursement and accounting of all moneys received by him in behalf of such district.

§ 177. Maintenance of schools; teachers.—Such schools shall be under the supervision of the district superintendent and shall be maintained pursuant to regulations adopted by the commissioner of education. They shall be free to all children of school age residing in such camps and other places of temporary habitation, and also to all adults residing therein. They shall be open at such hours as may be prescribed by the district superintendent, subject to the approval of the commissioner of education. The trustee of

each such district shall employ qualified teachers for school therein, for such term and at such rate of compensation as may be determined upon by the district superintendent, with the approval of the commissioner of education. The said trustees shall provide suitable building or rooms for such school and shall require the same to be kept in proper condition for the maintenance thereof, and shall cause the same to be equipped and supplied with all necessary books, furniture, apparatus and appliances.

§ 178. **Payment of expenses; gifts and contributions.**—The costs and expenses of maintaining such schools in temporary districts, exclusive of the amount apportioned thereto out of the public moneys, shall be paid in such districts where the public works are being constructed by the state, out of moneys appropriated for such purpose. In districts where public works or improvements are being constructed for a municipality, such costs and expenses shall be a charge upon such municipality, and shall be paid out of funds available for the payment of the cost of construction of such works or improvements.

The trustee of such district shall prepare an estimate of the amount of probable expenditures for the maintenance of the public schools in such district, which shall include a statement of the amount in the hands of the treasurer available for such maintenance, the amount received by such treasurer from gifts, contributions and other sources, and the amount to be received from the public school moneys, as herein provided, and shall also state the amount required to be raised for such school, specifying the items thereof, for the ensuing school year. The form of such estimate shall be prescribed by the district superintendent. In the districts where the public works are being constructed by a municipality the said estimate shall be executed in duplicate, one of which shall be filed with the state education department, and the other shall be filed in the office of the department or officer of the municipality under whose supervision such public works are being constructed. Upon the approval of such estimates by the state education department notice thereof shall be given to the said department or officer of the municipality, and payment of the amount specified in such estimate shall be made to the treasurer of such district. The treasurer shall preserve vouchers of all payments made by him on account of the school in his district and shall make no payments for purposes not provided for in the estimate, nor without the order of the trustee of the district accompanied with the necessary vouchers.

§ 179. **Regulations of commissioner of education.**—The commissioner of education shall make regulations, not inconsistent herewith, for the purpose of providing for the establishment and maintenance of schools as herein provided, and for the purpose of carrying into effect the full intent of this article.

FREE LECTURES FOR WORKINGPEOPLE

LAWS OF 1888, CHAPTER 545

AN ACT to provide for lectures for workingmen and workingwomen [in New York City]

§ 1. The board of education of the city of New York is hereby authorized and empowered to provide for the employment of competent lecturers to deliver lectures on the natural sciences and kindred subjects in the public

schools of said city in the evenings for the benefit of workingmen and workingwomen.

§ 2. The said board of education shall have power to purchase the books, stationery, charts and other things necessary and expedient to successfully conduct said lectures which it shall have power to direct.

§ 3. No admission fee shall be charged, and at least one school in each ward of said city or such hall or halls therein, if there is not suitable accommodation in the school buildings for persons attending said lectures, where in the judgment of the said board of education it is practicable or expedient, shall be selected and designated by said board for the purpose of carrying out the provisions of this act, and one or more lectures, in the discretion of said board, shall be delivered in each school or other building so selected and designated in each week, between the first day of October in each year and the thirty-first day of March in each succeeding year, excepting the two weeks preceding and the week following the first day of January in each year; and such lecture or lectures may be advertised in a newspaper or newspapers published in said city, or otherwise, as the said board of education in its discretion shall determine. The board of estimate and apportionment of the city and county of New York is hereby authorized to appropriate annually sufficient money to carry out the provisions of this act. [*As am'd by L. 1889, ch. 383; L. 1890, ch. 305; L. 1891, ch. 71.*]

LICENSING OF TRADES

[State examination boards grant certificates or licenses to nurses, pharmacists, physicians and other professions, and also to marine engineers and chauffeurs; but the regulation of other licensed *trades* is delegated to municipalities. Of the various local laws only those applying to New York City are here reprinted.]

LICENSING OF ENGINEERS AND PILOTS OF VESSELS

THE NAVIGATION LAW, CHAPTER 37 OF THE CONSOLIDATED LAWS

§ 17. Licenses.—Every person employed as master, pilot or engineer on board of a steam vessel or a vessel propelled by machinery, carrying passengers or freight for hire, or towing for hire, shall be examined by the inspectors as to his qualifications, and if satisfied therewith they shall grant him a license for the term of one year for such boat, boats or class of boats as said inspectors may specify in such license. In a proper case, the license may permit and specify that the master may act as pilot, and in case of small vessels also as engineer and pilot. The license shall be framed under glass, and posted in some conspicuous place on the vessel on which he may act. Whoever acts as master, pilot or engineer, without having first received such license, or upon a boat or class of boats not specified in his license, shall be liable to a penalty of fifty dollars for each day that he so acts, except as in this article otherwise specified, and such license may be revoked by the inspectors for intemperance, incompetency or willful violation of duty. An applicant for license as master, pilot or engineer, to act as such on steam vessels, must be a citizen of the United States, at least twenty-one years of age, and to act as such on motor boats he shall be not less than eighteen years old. [*As am'd by L. 1913, ch. 765.*]

§ 34. * * * Each person licensed shall pay five dollars for each original license and three dollars for each renewal thereof. * * *

For the act regulating the pilotage of the port of New York see Navigation Law, § 56.

LICENSING OF CHAUFFEURS

THE HIGHWAY LAW, CHAPTER 25 OF THE CONSOLIDATED LAWS

§ 281. Definitions.—* * * The term “chauffeur” shall mean any person operating or driving a motor vehicle, as an employee or for hire. * * * [*Added by L. 1910, ch. 374; am'd by L. 1911, ch. 491.*]

§ 289. License of chauffeurs; renewals.—1. License of chauffeurs. Application for license to operate motor vehicles, as a chauffeur, may be made, by mail or otherwise, to the secretary of state or his duly authorized agent upon blanks prepared under his authority. The secretary of state shall appoint examiners and cause examinations to be held at convenient points throughout the state as often as may be necessary. Such application shall be accompanied by a photograph of the applicant in such numbers and forms as the secretary of state shall prescribe, said photograph to be taken within thirty days prior to the filing of said application and to be accompanied by the fee provided herein. Before such a license is granted the applicant shall pass such examination as to his qualifications as the secretary of state

shall require. No chauffeur's license shall be issued to any person under eighteen years of age. To each person shall be assigned some distinguishing number or mark, and the license issued shall be in such form as the secretary of state shall determine; it may contain special restrictions and limitations concerning the type of motor power, horse power, design and other features of the motor vehicles which the licensee may operate; it shall contain the distinguishing number or mark assigned to the licensee, his name, place of residence and address, a brief description of the licensee for the purpose of identification and the photograph of the licensee. Such distinctive number or mark shall be of a distinctly different color each year and in any year shall be of the same color as that of the number plates issued for that year. The secretary of state shall furnish to every chauffeur so licensed a suitable metal badge with the distinguishing number or mark assigned to him thereon without extra charge therefor. This badge shall thereafter be worn by such chauffeur affixed to his clothing in a conspicuous place, at all times while he is operating or driving a motor vehicle upon the public highway. Said badge shall be valid only during the term of the license of the chauffeur to whom it is issued as aforesaid. Every person licensed to operate motor vehicles as aforesaid shall indorse his usual signature on the margin of the license, in the space provided for the purpose, immediately upon receipt of said license, and such license shall not be valid until so indorsed. Every application for license filed under the provisions of this section shall be sworn to and shall be accompanied by a fee of five dollars, two dollars of which shall be for his examination aforesaid and three dollars for license fee. The license hereunder granted on or before August first, nineteen hundred and ten, shall take effect on that date, and licenses issued prior to January thirty-first, nineteen hundred and eleven, shall expire on that date. The fees for such licenses shall be one-half of the annual fees provided herein. [*Subd. 1 added by L. 1910, ch. 374; am'd by L. 1911, ch. 491.*]

2. Chauffeur's licensed registration book. Upon the receipt of such an application, the secretary of state shall thereupon file the same in his office, and register the applicant in a book or index which shall be kept in the same manner as the book or index for the registration of motor vehicles, and when the applicant shall have passed the examination provided for in the preceding section, the number or mark assigned to such applicant together with the fact that such applicant has passed such examination shall be noted in said book or index. [*Subd. 2 added by L. 1910, ch. 374.*]

3. Unauthorized possession or use of license or badge. No chauffeur having been licensed as herein provided shall voluntarily permit any other person to possess or use his license or badge, nor shall any person while operating or driving a motor vehicle use or possess any license or badge belonging to another person, or a fictitious license or badge. [*Subd. 3 added by L. 1910, ch. 374.*]

4. Unlicensed chauffeurs cannot drive motor vehicle. No person shall operate or drive a motor vehicle as a chauffeur upon a public highway of this state after the first day of August, nineteen hundred and ten, unless such person shall have complied in all respects with the requirements of this section; provided, however, that a nonresident chauffeur, who has registered under provisions of law of the foreign country, state, territory or federal district of his residence substantially equivalent to the provisions of this

section, shall be exempt from license under this section; and provided, further, he shall wear the badge assigned to him in the foreign country, state, territory or federal district of his residence in the manner provided in this section. [*Subd. 4 added by L. 1910, ch. 374.*]

5. Renewal. Such license shall be renewed annually upon the payment of the same fee as provided in this section for the original license, such renewal to take effect on the first day of February of each year. The secretary of state may refuse to issue or renew a license if he deems the applicant not qualified to receive such license, but the refusal of the secretary of state may be reviewed by writ of certiorari. For renewals to take effect on and after February first, nineteen hundred and twelve, the fee shall be two dollars. [*Subd. 5 added by L. 1910, ch. 374; am'd by L. 1911, ch. 491.*]

Original §§ 281, 302-306 of the Highway Law, relative to chauffeurs, were repealed by L. 1910, ch. 374.

LICENSING OF MOVING-PICTURE MACHINE OPERATORS

THE GENERAL CITY LAW, CHAPTER 21 OF THE CONSOLIDATED LAWS

§ 18. License to operate moving picture apparatus.—It shall not be lawful for any person or persons to operate any moving picture apparatus and its connections in a city of the first class unless such person or persons so operating such apparatus is duly licensed as hereinafter provided. Any person desiring to act as such operator shall make application for a license to so act to the mayor or licensing authority designated by the mayor, unless the charter of said city so designates, which officer shall furnish to each applicant blank forms of application which the applicant shall fill out. Such officer shall make rules and regulations governing the examination of applicants and the issuance of licenses and certificates. A license shall not be granted to an applicant unless he shall have served as an apprentice under a licensed operator, for a period of not less than six months prior to the date of the application; the application must be made in writing, and contain a verified statement to that effect; it must be accompanied by the affidavit of the licensed operator to the same effect; before entering upon the period of apprenticeship the applicant must register his name and address with the officer issuing such license. The applicant shall be given a practical examination under the direction of the officer required to issue such license and if found competent as to his ability to operate moving picture apparatus and its connections shall receive within six days after such examination a license as herein provided. Such license may be revoked or suspended at any time by the officer issuing the same. Every license shall continue in force for one year from the date of issue unless sooner revoked or suspended. Every license, unless revoked or suspended, as herein provided, may at the end of one year from the date of issue thereof be renewed by the officer issuing it in his discretion upon application and with or without further examination as he may direct. Every application for renewal of license must be made within the thirty days previous to the expiration of such license. With every license granted there shall be issued to every person obtaining such license a certificate, certifying that the person named therein is duly authorized to operate moving picture apparatus and its connections. Such certificate shall be displayed in a conspicuous place in the room where the person to whom it is issued operates moving picture apparatus and its connections.

No person shall be eligible to procure a license unless he shall be of full age. Any person offending against the provisions of this section, as well as any person who employs or permits a person not licensed as herein provided to operate moving picture apparatus and its connections, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of one hundred dollars, or imprisonment for a period not exceeding three months, or both. [*Added by L. 1911, ch. 252.*]

LAWS OF 1901, CHAPTER 466, BEING THE REVISED CHARTER OF GREATER NEW YORK

§ 529-a. No person to operate moving picture apparatus and its connections without a license.—It shall not be lawful for any person or persons to operate any moving picture apparatus and its connections in the city of New York unless such person or persons so operating such apparatus is duly licensed as hereinafter provided. Any person desiring to act as such operator shall make application for a license to so act to the commissioner of water supply, gas and electricity of the city of New York who shall furnish to each applicant blank forms of application which the applicant shall fill out.

The commissioner of water supply, gas and electricity shall make rules and regulations governing the examination of applicants and the issuance of licenses and certificates.

The applicant shall be given a practical examination under the direction of the commissioner of water supply, gas and electricity and if found competent as to his ability to operate moving picture apparatus and its connection shall receive within six days after such examination a license as herein provided. Such license may be revoked or suspended at any time by the commissioner of water supply, gas and electricity. Every license shall continue in force for one year from the date of issue unless sooner revoked or suspended. Every license, unless revoked or suspended, as herein provided, may at the end of one year from the date of issue thereof be renewed by the commissioner of water supply, gas and electricity in his discretion upon application and with or without further examination as said commissioner may direct. Every application for renewal of license must be made within the thirty days previous to the expiration of such license. With every license granted there shall be issued to every person obtaining such license a certificate, made by the commissioner of water supply, gas and electricity or such other officer as such commissioner may designate, certifying that the person named therein is duly authorized to operate moving picture apparatus and its connections. Such certificate shall be displayed in a conspicuous place in the room where the person to whom it is issued operates moving picture apparatus and its connections. No person shall be eligible to procure a license unless he shall be a citizen of the United States and of full age. Any person offending against the provisions of this section, as well as any person who employs or permits a person not licensed as herein provided to operate moving picture apparatus and its connections, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding the sum of one hundred dollars or imprisonment for a period not exceeding three months, or both, in the discretion of the court. [*Added by L. 1910, ch. 654.*]

**INSPECTION OF STEAM BOILERS AND LICENSING OF STEAM ENGINEERS IN
NEW YORK CITY *****LAWS OF 1901, CHAPTER 466, BEING THE REVISED CHARTER OF GREATER
NEW YORK**

§ 342. Steam boilers; inspection of; not to be operated without certificate. — Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall annually, and at such convenient times and in such manner and in such form as may by rules and regulations to be made therefor by the police commissioner be provided, report to the said department the location of each steam boiler or boilers, and thereupon, and as soon thereafter as practicable, the sanitary company or such member or members thereof as may be competent for the duty herein described, and may be detailed for such duty by the police commissioner shall proceed to inspect such steam boilers, and all apparatus and appliances connected therewith; but no person shall be detailed for such duty except he be a practical engineer, and the strength and security of each boiler shall be tested by atmospheric and hydrostatic pressure and the strength and security of each boiler or boilers so tested shall have, under the control of said sanitary company, such attachments, apparatus and appliances as may be necessary for the limitation of pressure, locked and secured in like manner as may be from time to time adopted by the United States inspectors of steam boilers or the secretary of the treasury, according to act of Congress, passed July twenty-fifth, eighteen hundred and sixty-six; and they shall limit the pressure of steam to be applied to or upon such boiler, certifying each inspection and such limit of pressure to the owner of the boiler inspected, and also to the engineer in charge of same, and no greater amount of steam or pressure than that certified in the case of any boiler shall be applied thereto. In limiting the amount of pressure, wherever the boiler under test will bear the same, the limit desired by the owner of the boiler shall be the one certified. Every owner, agent or lessee of a steam boiler or boilers in use in The City of New York shall, for the inspection and testing of such or each of such boilers, as provided for in this act, and upon receiving from the police department a certificate setting forth the location of the boiler inspected, the date of such inspection, the persons by whom the inspection was made, and the limit of steam pressure which shall be applied to or upon such boiler or each of such boilers pay annually to the police commissioner for each boiler, for the use of the police pension fund, the sum of two dollars, such certificate to continue in force for one year from the granting thereof when it shall expire, unless sooner revoked or suspended. Such certificate may be renewed upon the payment of a like sum and like conditions, to be applied to a like purpose. It shall not be lawful for any person or persons, corporation or corporations, to have used or operated within The City of New York any steam boiler or boilers except for heating purposes and for railway locomotives, without having first had such boiler or boilers inspected or tested and procured for such boiler or each of such boilers so used or operated the certificate herein provided for. The superintendent and inspectors of boilers, in the employ of the police department, in the city of Brooklyn, and the boiler inspectors in

* For statute regulating examination of stationary engineers in Buffalo, see the charter, L. 1914, ch. 218, § 13, subd. 5. As to general responsibility of persons in charge of steam boilers, see Penal Law, §§ 1052, 1893, given in part, p. 268, *ante*.

Long Island City, shall continue to discharge the duties heretofore devolved upon them, subject, however, to removal for cause, or when they are no longer needed.

§ 343. No person to use, or act as engineer for, without certificate.—It shall not be lawful for any person or persons to operate or use any steam boiler to generate steam except for railway locomotive engines, and for heating purposes in private dwellings, and boilers carrying not over ten pounds of steam and not over ten horse-power, or to act as engineer for such purposes in The City of New York without having a certificate of qualification therefor from practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of The City of New York and to continue in force one year, unless sooner revoked or suspended. Such certificate may be revoked or suspended at any time by the police commissioner upon the report of any two practical engineers, detailed as provided in this section, stating the grounds upon which such certificate should be revoked or suspended. Where such certificate shall have been revoked, as provided in this section, a like certificate shall not in any case be issued to the same person within six months from the date of the revocation of the former certificate held by such person.

LAWS OF 1897, CHAPTER 635, AMENDING SECTION 312 OF THE NEW YORK CITY
CONSOLIDATION ACT (LAWS OF 1882, CHAPTER 410)

* * * * *

And no owner, or agent of such owner, or lessee of any steam boiler to generate steam, shall employ any person as engineer or to operate such boiler unless such person shall first obtain a certificate as to qualification therefor from a board of practical engineers detailed as such by the police department, such certificate to be countersigned by the officer in command of the sanitary company of the police department of the city of New York. In order to be qualified to be examined for and to receive such certificate of qualification as an engineer, a person must comply, to the satisfaction of said board, with the following requirements:

1. He must be a citizen of the United States and over twenty-one years of age.

2. He must, on his first application for examination, fill out, in his own handwriting, a blank application to be prepared and supplied by the said board of examiners, and which shall contain the name, age, and place of residence of the applicant, the place or places where employed and the nature of his employment for five years prior to the date of his application, and a statement that he is a citizen of the United States. The application shall be verified by him, and shall, after the verification, contain a certificate signed by three engineers, employed in New York city, and registered on the books of said board of examiners as engineers working at their trade, certifying that the statements contained in such application are true. Such application shall be filed with said board.

3. The following persons, who have first complied with the provisions of subdivisions one and two of this section, and no other persons may make application to be examined for a license to act as engineer.

a. Any person who has been employed as a fireman, as an oiler, or as a

general assistant under the instructions of a licensed engineer in any building or buildings in the city of New York, for a period of not less than five years.

b. Any person who has served as a fireman, oiler or general assistant to the engineer on any steamship or steamboat, for a period of five years, and shall have been employed for two years under a licensed engineer in a building in the city of New York, or any person who has served as a marine or locomotive engineer or fireman to a locomotive engineer for a period of five years and shall have been a resident of the state of New York for a period of two years. [*As am'd by L. 1900, ch. 461.*]

c. Any person who has learned the trade of machinist, or boiler maker or steamfitter and worked at such trade for three years exclusive of time served as apprentice, or while learning such trade, and also any person who has graduated as a mechanical engineer from a duly established school of technology, after such person has had two years' experience in the engineering department in any building or buildings in charge of a licensed engineer in the city of New York.

d. Any person who holds a certificate as engineer issued to him by any duly qualified board of examining engineers existing pursuant to law in any state or territory of the United States and who shall file with his application a copy of such certificate and an affidavit that he is the identical person to whom said certificate was issued. If the board of examiners of engineers shall determine that the applicant has complied with the requirements of this section he shall be examined as to his qualifications to take charge of, and operate steam boilers and steam engines in the city of New York, and if found qualified said board shall issue to him a certificate of the third class. After the applicant has worked for a period of two years under his certificate of the third class, he may be again examined by said board for a certificate of the second class and if found worthy the said board may issue to him such certificate of the second class, and after he has worked for a period of one year under said certificate of the second class he may be examined for a certificate of the first class; and when it shall be made to appear to the satisfaction of said board of examiners that the applicant for either of said grades lacks mechanical skill, is a person of bad habits or is addicted to the use of intoxicating beverages he shall not be entitled to receive such grade of license and shall not be re-examined for the same until after the expiration of one year. Every owner or lessee, or the agent of the owner or lessee, of any steam boiler, steam generator, or steam engine aforesaid, and every person acting for such owner or agent is hereby forbidden to delegate or transfer to any person or persons other than the licensed engineer the responsibility and liability of keeping and maintaining in good order and condition any such steam boiler, steam generator or steam engine, nor shall any such owner, lessee or agent, enter into a contract for the operation or management of a steam boiler, steam generator or steam engine, whereby said owner, lessee or agent shall be relieved of the responsibility or liability for injury which may be caused to person or property by such steam boiler, steam generator or steam engine. Every engineer holding a certificate of qualification from said board of examiners shall be responsible to the owner, lessee, or agent employing him for the good care, repair, good order and management of the steam boiler, steam generator or steam engine in charge of, or run or operated by such engineer.

e. Any person or persons violating any provision of this section or of any of its subdivisions shall be guilty of a misdemeanor. [*Added by L. 1900, ch. 709.*]

LICENSING OF STATIONARY FIREMEN IN NEW YORK CITY

LAWS OF 1901, CHAPTER 733

AN ACT to provide for the licensing of firemen operating steam stationary boiler or boilers in the city of New York

Section 1. It shall be unlawful for any fireman or firemen to operate steam stationary boiler or boilers in the city of New York, unless the fireman or firemen so operating such boiler or boilers are duly licensed as hereinafter provided. Such fireman or firemen to be under the supervision and direction of a duly licensed engineer or engineers.

§ 2. Should any boiler or boilers be found at any time operated by any person who is not a duly licensed fireman or engineer as provided by this act, the owner or lessee thereof shall be notified, and if after one week from such notification the same boiler or boilers is again found to be operated by a person or persons not duly licensed under this act, it shall be deemed prima facie evidence of a violation of this act.

§ 3. Any person desiring to act as a fireman shall make application for a license to so act, to the steam boiler bureau of the police department as now exists for licensing engineers, who shall furnish to each applicant blank forms of application, which application when filled out, shall be signed by a licensed engineer engaged in working as an engineer in the city of New York, who shall therein certify that the applicant is of good character, and has been employed as oiler, coalpasser or general assistant under the instructions of a licensed engineer on a building or buildings in the city of New York, or on any steamboat, steamship or locomotive for a period of not less than two years. The applicant shall be given a practical examination by the board of examiners detailed as such by the police commissioner and if found competent as to his ability to operate a steam boiler or boilers as specified in section one of this act shall receive within six days after such examination a license as provided by this act. Such license may be revoked or suspended at any time by the police commissioner upon the proof of deficiency. Every license issued under this act shall continue in force for one year from the date of issue unless sooner revoked as above provided. Every license issued under this act unless revoked as herein provided shall at the end of one year from date of issue thereof, be renewed by the board of examiners upon application and without further examination. Every application for renewal of license must be made within thirty days of the expiration of such license. With every license granted under this act there shall be issued to every person obtaining such license a certificate, certified by the officers in charge of the boiler inspection bureau. Such certificate shall be placed in the boiler room of the plant operated by the holder of such license, so as to be easily read.

§ 4. No person shall be eligible to procure a license under this act unless the said person be a citizen of the United States.

§ 5. All persons operating boilers in use upon locomotives or in government buildings, and those used for heating purposes carrying a pressure not exceeding ten pounds to the square inch, shall be exempt from the provisions of this act. Such license will not permit any person other than a duly licensed engineer to take charge of any boiler or boilers in the city of New York.

TRADE UNIONS

[No special provision is made by the statutes of New York for incorporation of trade unions as business organizations. An association of workingmen for the purpose of undertaking co-operative insurance may incorporate under the Insurance Law; but nothing in this law or any of the laws relating to stock corporations provides for the actual business of trade unions in contracting with employers as the agents of the employees. This primary object of trade unions finds no recognition, of course, in the non-stock corporation laws; although the unions that have incorporated in New York have done so under the Membership Corporations Law, which applies to benevolent, charitable, scientific and missionary societies.

Trade unions do not in fact find incorporation necessary in order to obtain legal standing in the courts, since the law of this state has provided since 1851 that an unincorporated association consisting of seven or more persons may sue and be sued in the name of its president and treasurer (§§ 1919, 1921, of the Code of Civil Procedure, as below).

Disobedience of an injunction addressed to an unincorporated association and "its each and every member" constitutes a criminal contempt even if the violators were not personally served with the order: *People ex rel. Stearns v. Marr*, 181 N. Y. 403 (1905).

As to union labels, see §§ 15 and 16 of the Labor Law, p. 19, *ante*.]

A union member deprived of membership without a fair trial may seek redress in the civil courts: *Williamson v. Randolph*, 48 Misc. 96; *Schouten v. Alpine*, 77 Misc. 19; *People ex rel. Holstrom v. I. D. B. B. Union*, 164 App. Div. 267.

ACTION BY OR AGAINST AN UNINCORPORATED ASSOCIATION

CODE OF CIVIL PROCEDURE, ARTICLE I OF TITLE V OF CHAPTER XV

§ 1919. An action or special proceeding may be maintained, by the president or treasurer of an unincorporated association, consisting of seven or more persons, to recover any property, or upon any cause of action, for or upon which all the associates may maintain such an action or special proceeding, by reason of their interest or ownership therein, either jointly or in common. An action may likewise be maintained by such president or treasurer to recover from one or more members of such association his or their proportionate share of any moneys lawfully expended by such association for the benefit of such associates, or to enforce any lawful claim of such association against such member or members. An action or special proceeding may be maintained, against the president or treasurer of such an association, to recover any property, or upon any cause of action, for or upon which the plaintiff may maintain such an action or special proceeding, against all the associates, by reason of their interest or ownership, or claim of ownership therein, either jointly or in common, or their liability therefor, either jointly or severally. Any partnership, or other company of persons, which has a president or treasurer, is deemed an association within the meaning of this section. [As am'd by L. 1900, ch. 184.]

The action, though in form against such officer, is in substance and reality against the association: *Mason v. Holmes*, 30 Misc. 719.

§ 1921. In such an action the officer against whom it is brought cannot be arrested; and a judgment against him does not authorize an execution to be issued against his property, or his person; nor does the docketing thereof bind his real property, or chattels real. Where such a judgment is for a sum of money, an execution issued thereupon must require the sheriff to satisfy

the same, out of any personal or real property belonging to the association, or owned, jointly or in common, by all the members thereof. [As am'd by L. 1898, ch. 293.]

An action for damages held to lie against an unincorporated trade union, *Curran v. Galen*, 152 N. Y. 33 (1897); see also *Connell v. Stalker*, 20 Misc. 423 (1897); *Coons v. Chrystle*, 24 Misc. 296 (1898); *Matthews v. Shankland*, 25 Misc. 604 (1898); *Beattie v. Callanan*, 67 App. Div. 14 (1901).

AUTHORIZING THE INCORPORATION OF LABOR ORGANIZATIONS FOR BENEVOLENT PURPOSES

THE MEMBERSHIP CORPORATIONS LAW, CHAPTER 35 OF THE CONSOLIDATED LAWS

§ 40. Purposes for which corporations may be formed under this article.—A membership corporation may be created under this article for any lawful purpose, except a purpose for which a corporation may be created under any other article of this chapter, or any other general law than this chapter.

Reviser's Note.—"This section is intended to make one complete general statement, including every object for which membership corporations ought to be permitted under a general law, instead of a long enumeration of particular purposes, requiring new legislation whenever incorporation is desired for a new purpose. The definition of a membership corporation in section 2 will prevent the formation of a stock corporation or of a mutual benefit insurance corporation under this article. See *Matter of Lampson*, 35 App. Div. 49, aff'd in 161 N. Y. 511; *People v. Johnson*, 22 Misc. 150."

§ 41. Certificates of incorporation.—Five or more persons may become a membership corporation for any one of the purposes for which a corporation may be formed under this article or for any two or more of such purposes of a kindred nature, by making, acknowledging and filing a certificate, stating the particular objects for which the corporation is to be formed, each of which must be such as is authorized by this article; the name of the proposed corporation; the territory in which its operations are to be principally conducted; the town, village or city in which its principal office is to be located, if it be then practicable to fix such location; the number of its directors, not less than three nor more than thirty; and the names and places of residence of the persons to be its directors until its first annual meeting. Such certificate shall not be filed without the written approval, indorsed thereupon or annexed thereto, of a justice of the supreme court. * * * On filing such certificate, in pursuance of law, the signers thereof, their associates and successors, shall be a corporation in accordance with the provisions of such certificate. * * *

AUTHORIZING LABOR ORGANIZATIONS TO MAINTAIN OR CONSTRUCT BUILDINGS, HALLS OR LIBRARIES FOR THEIR USE

THE BENEVOLENT ORDERS LAW, CHAPTER 3 OF THE CONSOLIDATED LAWS

§ 7. Joint corporations.—* * * any number of trades unions, trades assemblies, trades associations or labor organizations * * * may unite in forming a corporation for the purpose of acquiring, constructing, maintaining and managing a hall, temple or other building, or a home for the aged and indigent members of such order and their dependent widows and orphans, and of creating, collecting, and maintaining a library for the use of the bodies uniting to form such corporation. Each body hereafter uniting to form such

corporation shall, at a regular meeting thereof, held in accordance with its constitution and general rules and regulations or by-laws, elect a member thereof for a term of three years to represent it in such corporation. * * *

The trustees so elected shall make, acknowledge and file with the secretary of state a certificate stating the name of the corporation to be formed, its purposes and objects, the names and places of residence of the trustees, the names of the bodies which they respectively represent, the names of the bodies uniting to form the corporation and their location, and the name of the town, village or city and the county where such building is, or is to be located; and thereupon the several bodies so uniting shall be a corporation for the purposes specified in such certificate. [*As am'd by L. 1914, ch. 509.*]

§ 9. Powers of joint corporations.—Such corporation may acquire real property in the town, village or city in which such hall, home, temple or building is or is to be located, and erect such building or buildings thereupon for the uses and purposes of the corporation, as the trustees may deem necessary, or repair, rebuild or reconstruct any building or buildings that may be thereupon and furnish and complete such rooms therein as may appear necessary for the use of such bodies or for any other purpose for which the corporation is formed; and may rent to other persons any portion of such building or real property for business or other purposes. Until such real property shall be acquired or such building erected or made ready for use, the corporation may rent and sublet such rooms or apartments in such town, village or city as may be suitable or convenient for the use of the bodies mentioned in such certificate, or of such other bodies as may desire to use them, and the board of trustees may determine the terms and conditions on which rooms and apartments in such building or buildings, when erected, or which may be leased, shall be used and occupied. Before such corporation composed of not more than thirty bodies shall purchase or sell any real property, or erect or repair any building or buildings thereupon, and before it shall purchase any building or part of a building for the use of a corporation, it shall submit to the bodies constituting the corporation, the proposition to make such sale or purchase, or to erect or repair any such building or buildings, or to rent any building or part thereof, for the use of the corporation; and unless such proposition receives the approval of two-thirds of the bodies constituting the corporation, such proposition shall not be carried into effect. The evidence of the approval of such proposition by any such body shall be a certificate to that effect signed by the presiding officer and secretary of the body, or the officers discharging duties corresponding to those of the presiding officer and secretary, under the seal of such body. But where land is purchased for the purpose of erecting a hall, home or temple thereon, the buildings upon such land at the time of such purchase may be sold by the trustees without such consent. The powers of the board of trustees of every corporation created hereunder and composed of more than thirty bodies, respecting sales, purchases and repairs, shall be fixed by the by-laws adopted by the representatives of the various bodies composing such corporation, or shall be determined by such representatives when assembled in annual session. Every corporation created hereunder shall have power to enforce, at law or in equity, any legal contract which it may make with any of the bodies composing it respecting the care and maintenance of members or other de-

pendents of such body, the same as if such body or bodies were not members of the corporation. Any corporation created hereunder shall have power to take and hold real and personal estate by purchase, gift, devise or bequest subject to the provisions of law relating to devises and bequests by last will and testament or otherwise. [*As am'd by L. 1913, ch. 11.*]

FORBIDDING LABOR ORGANIZATIONS TO DISCRIMINATE AGAINST MEMBERS OF THE NATIONAL GUARD

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 481. Discrimination against members of the national guard.—No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote, or regulation, discriminate against any member of the national guard of the state of New York, because of such membership in respect of the eligibility of such member of the said national guard to membership in such association or corporation, or in respect of his right to retain said last mentioned membership; it being the purpose of this section and the section immediately preceding to protect a member of the said national guard from disadvantage in his means of livelihood and liberty therein but not to give him any preference or advantage on account of his membership of said national guard. A person who aids in enforcing any such provisions against a member of the said national guard with the intent to discriminate against him because of such membership, is guilty of a misdemeanor.

PREVENTING FRAUDULENT REPRESENTATION IN LABOR ORGANIZATIONS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1278. Fraudulent representation in labor organizations.—Any person who represents himself or herself to be a member of, or who claims to represent a labor organization which does not exist within the state, at the time of such representation, or who has in his or her possession a credential, certificate or letter of introduction bearing a fraudulent seal, or bearing the seal of a labor organization which has ceased to exist, and does not exist at the time of such representation, and attempts to gain admission by the use of said credential, certificate or letter of introduction, as a member of any convention, or meeting of representatives of labor organizations of the state, shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not less than twenty dollars nor more than fifty dollars, and imprisonment for not less than ten days nor more than thirty days in the jail of the county wherein such conviction is had, or by both such fine and imprisonment.

UNAUTHORIZED USE OF BADGES, TITLES, ETC.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 2240. Unauthorized wearing or use of badge, name, title of officers, insignia, ritual or ceremony of certain orders and societies.—1. Any person who wilfully wears the badge or the button of * * * any society, order or organization, of ten years' standing in the state of New York, or uses the same to obtain aid or assistance within this state, or wilfully uses the name of such society, order or organization, the titles of its officers, or its

insignia, ritual or ceremonies, unless entitled to use or wear the same under the constitution and by-laws, rules and regulations of such order or of such society, order or organization, is guilty of a misdemeanor. [*As am'd by L. 1914, ch. 149 and L. 1915, ch. 320.*]

UNLAWFUL TO COMPEL EMPLOYEES TO AGREE NOT TO JOIN LABOR ORGANIZATIONS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 531. Coercion by employers.— Any person or employer of labor, and any person of any corporation on behalf of such corporation, who shall hereafter coerce or compel any person, employee, laborer or mechanic, to enter into an agreement, either written or verbal, from such person, employee, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person securing employment, or continuing in the employment of any such person, employer or corporation, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment.

This statute imposes an unauthorized restraint upon the freedom to contract in relation to the purchase and sale of labor, and is unconstitutional: *People v. Marcus*, 185 N. Y. 257 (1906).

UNLAWFUL TO BRIBE REPRESENTATIVES OF LABOR ORGANIZATIONS

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 380. Bribery of labor representatives.— A person who gives or offers to give any money or other things of value to any duly appointed representative of a labor organization with intent to influence him in respect to any of his acts, decisions, or other duties as such representative, or to induce him to prevent or cause a strike by the employees of any person or corporation, is guilty of a misdemeanor; and no person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of this section, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to convict him of a crime or subject him to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be received against him upon any criminal investigation or proceeding.

Compare "Corrupt influencing of employees," Penal Law, § 439, p. 269, *ante*.

INDUSTRIAL DISPUTES *

[The "right to strike," i. e., to quit work in concert, is controlled by the statutes and judicial decisions respecting combinations. Sections 580 and 582 of the Penal Law define conspiracies, or unlawful combinations. The latter section expressly legalizes a combination (strike) for the purpose of maintaining or advancing the rate of wages, and the courts have broadened this authorization to include any peaceable and orderly strike of wage workers, *not to harm others but to improve their own condition*, within which lawful purpose may be a strike by a trade union to procure the discharge of an outsider and the employment of its own members: *Nat'l Protective Assn. v. Cumming*, 170 N. Y. 315; *Wunch v. Shankland*, 179 N. Y. 545, Mem. But concerning strikes for the "closed shop," see that topic below. Similarly, a lockout is legal if no malice is shown: *City Trust, Safe Deposit & Surety Co. v. Waldhauer*, 47 Misc. 7.

INTIMIDATION.—A strike that has a lawful purpose becomes unlawful if conducted by unlawful means. Thus it is contrary to law to use or threaten to use violence, force or intimidation in the prosecution of a strike (§ 530 of the Penal Law, defining coercion); or to endanger life by refusal to labor (§ 1910); or interfere with passengers in public conveyances (§ 720), etc.

Violation of an injunction order against illegal interference with new employees on the part of strikers constitutes criminal contempt and is punishable as such even though the individual members of the union were not personally served with the order: *People ex rel. Stearns v. Marr*, 181 N. Y. 463 (1905).

PICKETING is not defined by statute, but by the interpretation placed by the courts on the above-mentioned laws relating to coercion. One of the most authoritative discussions of "picketing" by Federal courts is in *Union Pacific Ry. Co. v. Ruef* (120 Fed. Rep. 102), and by the New York courts in a unanimous decision of the Second Appellate Division, December, 1904, which is, in part, as follows:

"'Picketing' may simply mean the stationing of men for observation. If in the doing of this act, solely for such purpose, there be no molestation or physical annoyance, or let or hindrance of any person then it can not be said that such an act is, *per se*, unlawful. But 'picketing' may also mean the stationing of a man or men to coerce or to threaten, or to intimidate or to halt or to turn aside against their will those who would go to and from the picketed place to do business, or to work, or to seek work therein, or in some other way to hamper, hinder, or harass the free dispatch of business by the employer. In that case, picketing may well be said to be unlawful. * * * I may add that I am not prepared to say that all picketing which goes no further than 'persuasion and entreaty' of those who are about to work or to seek work or to do business in the picketed place is absolutely lawful. A wayfarer upon the public street should be free for peaceful travel. No man against my will has the legal right to occupy the public street to arrest my course or to join me on my way, be he ever so polite or gentle in his insistence. There may be no intimidation, and yet an interruption of peaceful travel. There may be annoyance without danger": *Mills v. U. S. Printing Co.*, 99 App. Div. 605.

BOYCOTTING.—The ruling of the Court of Appeals in the *Cumming* case, cited above, modified the law regarding boycotts, so that the courts do not find in a boycott *per se* the malicious purpose, or an attempt to injure, that constitutes conspiracy: *Foster v. Retail Clerks' Protective Association*, 39 Misc. 48 (1902); *Butterick Pub. Co. v. Typographical Union No. 6*, 50 Misc. 1 (1906). The injury inflicted may be only an incident of the act whereby the ultimate end is gained: *Mills v. U. S. Print. Co.*, 99 App. Div. 605. In this case the court unanimously indorsed Bouvier's statement, "A boycott is not unlawful unless attended with some act which in itself is illegal," and continued: "I think that the verb 'to boycott' does not necessarily signify that the doers employ violence, intimidation or other unlawful coercive means, but that it may be correctly used in the sense of the act of a combination in refusing to have business dealings with another until he removes or ameliorates conditions which are deemed inimical to the wel-

* For posting of notice of strikes or lockouts in public employment offices, and refusal to accept employment, see Labor Law. §§ 66-g, 66-h, p. 42, *ante*.

fare of the members of the combination, or some of them, or grants concessions which are deemed to make for that purpose. And as such a combination may be formed and held together by argument, persuasion, entreaty or by the 'touch of nature,' and may accomplish its purpose without violence or other unlawful means, i. e., simply by abstention, I think it cannot be said that 'to boycott' is to offend the law." In agreement with this view, see the opinion of the Supreme Court of Missouri (1901) in *Marx & Hass Jeans Clothing Co. v. Watson* (67 S. W. Rep. 391). On the other hand, the earlier rule is maintained in the cases of *Davis Machine Co. v. Robinson* (41 Misc. 329) and *People v. McFarlin* (43 Misc. 599). A boycott which affects inter-state commerce is illegal under the Federal anti-trust law: *Loewe v. Lawlor*, 208 U. S. 274 (the hatters' case).

BLACKLISTING.—The blacklist is in principle a form of the boycott, but is carried on in such secrecy that it has seldom come before the courts.

THE "CLOSED SHOP."—It has been held that an agreement providing for the closed shop; i. e., exclusive employment of members of a trade union, is not in violation of law and will be enforced by the courts: *Jacobs v. Cohen*, 183 N. Y. 207 (1905); *Nat'l Fire Proofing Co. v. Mason Builders' Assn.*, 145 Fed. Rep. 260, (June, 1906); *Kissam v. U. S. Printing Co.*, 199 N. Y. 76, affirming 128 App. Div. 889. But no agreement whatever makes it lawful for members of a union to coerce or maliciously interfere with non-union men: *Curran v. Galen*, 52 N. Y. 33, decided in 1897 and reaffirmed in *Jacobs* case just cited. *Of.* also *Beattie v. Callanan*, 82 App. Div. 7. Further, a strike for a closed shop throughout an entire trade in a locality has been held illegal as constituting conspiracy to deprive men of the exercise of the right to work: *Schwartz v. Int'l Ladies' Garment Workers' Union*, 68 Misc. 528. Similarly a requirement by employers generally in a community that employees must be members of a particular union is illegal: *McCord v. Thompson-Starrett Co.*, 129 App. Div. 130, aff'd in 198 N. Y. 587. A strike to prevent use by a union firm of materials manufactured by a non-union firm has been held both illegal on the ground of unlawful interference with an employer's freedom: *Irving v. Joint District Council*, 180 Fed. Rep. 896; *Newton Co. v. Erickson*, 70 Misc. 291; and legal as within the rights of workingmen: *Bossert v. United Brotherhood of Carpenters and Joiners*, 77 Misc. 592; also a strike to prevent manufacture of goods for a non-union firm: *Schlang v. Ladies' Waist Makers' Union*, 67 Misc. 222; both these being regarded as unlawful interference with an employer's freedom. An agreement binding workmen to work only for members of an employers association has been held illegal: *People v. Miller* in Magistrate's Court, New York City, August 20, 1904.

CONSPIRACY, INTIMIDATION, EXTORTION, ETC.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 580. Definition and punishment of conspiracy.—If two or more persons conspire:

1. To commit a crime; or
* * * * *

5. To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements or property belonging to or used by another, or with the use or employment thereof; or

6. To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws;

Each of them is guilty of a misdemeanor.

§ 581. Conspiracies against peace of the state.—If two or more persons, being out of this state, conspire to commit any act against the peace of this state, the commission or attempted commission of which, within this state, would be treason against the state, they are punishable by imprisonment in a state prison not exceeding ten years.

§ 582. **Punishable conspiracies.**—No conspiracy is punishable criminally unless it is one of those enumerated in the last two sections, and the orderly and peaceable assembling or co-operation of persons employed in any calling, trade or handicraft for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not a conspiracy.

§ 1910. **Endangering life by refusal to labor.**—A person who wilfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing, or having reasonable cause to believe, that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor.

§ 1480. **Depriving members of national guard of employment.**—A person who, either by himself or with another, wilfully deprives a member of the national guard of his employment, or prevents his being employed by himself or another, or obstructs or annoys said member of said national guard, or his employer, in respect of his trade, business, or employment, because said member of said national guard is such member, or dissuades any person from enlistment in the said national guard by threat of injury to him in case he shall so enlist, in respect of his employment, trade, or business, is guilty of a misdemeanor.

§ 530. **Coercing another person a misdemeanor.**—A person, who with a view to compel another person to do or to abstain from doing an act which such other has a legal right to do or to abstain from doing, wrongfully and unlawfully,

1. Uses violence or inflicts injury upon such other person or his family, or a member thereof, or upon his property, or threatens such violence or injury; or

2. Deprives any such person of any tool, implement, or clothing, or hinders him in the use thereof; or

3. Uses or attempts the intimidation of such person by threats or force;

Is guilty of a misdemeanor.

One who advises or induces another to commit assault or attempt other intimidation is also guilty of violating this prohibition, thus:

§ 2. *Definition of principal.*—A person concerned in the commission of a crime, whether he directly commits the act constituting the offense or aids and abets in its commission, and whether present or absent, and a person who directly or indirectly counsels, commands, induces or procures another to commit a crime, is a principal.

§ 850. **Extortion defined.**—Extortion is the obtaining of property from another, with his consent, induced by a wrongful use of force or fear, or under cover of official right.

§ 851. **What threats may constitute extortion.**—Fear, such as will constitute extortion, may be induced by an oral or written threat:

1. To do an unlawful injury to the person or property of the individual threatened, or to any relative of his or to any member of his family; or,

2. To accuse him, or any relative of his or any member of his family, of any crime; or,

3. To expose, or impute to him, or any of them, any deformity or disgrace; or,

4. To expose any secret affecting him or any of them; or,

5. To kidnap him or any relative of his or member of his family; or

[Subd. 5, added by L. 1911, ch. 602.]

6. To injure his person or property or that of any relative of his or member of his family by the use of weapons or explosives. [*Subd. 6 added by L. 1911, ch. 602. Section 851 am'd by L. 1911, chs. 121 and 602.*]

§ 852. Punishment of extortion.—A person who extorts any money or other property from another, under circumstances not amounting to robbery, is punishable by imprisonment not exceeding fifteen years, if the same is done by means of force or a threat mentioned in section eight hundred and fifty or in either of the first four subdivisions of section eight hundred and fifty-one, and by imprisonment for not less than five years nor more than twenty years if the same is done by means of a threat mentioned in subdivisions five or six of the latter section. [*As am'd by L. 1909, ch. 368; and L. 1911, ch. 602.*]

Obtaining money by threats or by the continuance of a boycott as described constitutes the crime of extortion under the above sections. Those present and abetting when the money is paid or uniting in the acts that lead to the payment or the agreement to pay, though not present when the money is received, are each liable as principals. Whether the money is shared personally or placed in a fund to pay the expenses of the boycott is of no consequence as affecting the crime: *People v. Wilzig*, N. Y. Cr. 403 (1886). A labor leader was convicted of extortion for having accepted a sum of money from an employer to pay for "waiting time," as alleged, of the striking employees: *People v. Barondess*, 41 N. Y. 659 (1891). Defendant, the head of a labor organization, was properly charged with extortion when evidence showed that he had demanded and received money as the price of abandoning a boycott undertaken to coerce plaintiffs into obedience to his commands as to the number of apprentices they should employ: *People v. Hughes*, 137 N. Y. 29 (1893). Defendant, president of a labor union, was convicted of extortion because he had obtained money from a contractor under threat of continuing a strike: *People v. Weinsheimer*, 117 App. Div. 603 (Feb. 1907).

§ 720. Relating to disorderly conduct on public conveyances.—Any person who shall by any offensive or disorderly act or language, annoy or interfere with any person in any place or with the passengers of any public stage, railroad car, ferry boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance, by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or battery, shall be deemed guilty of a misdemeanor.

§ 43. Penalty for acts for which no punishment is expressly prescribed.—A person who wilfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this chapter, is guilty of a misdemeanor; but nothing in this chapter contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered.

THE "ANTI-PINKERTON" ACT: PROHIBITING THE APPOINTMENT OF NON-RESIDENTS AS SPECIAL OFFICERS TO PRESERVE THE PUBLIC PEACE

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 1845. Special peace officers to be citizens.—No sheriff of a county, mayor of a city, or officials, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen, or other peace officers in this state, to preserve the public peace or quell public disturbance, shall hereafter, at the instance of any agent, society, association or corporation, or otherwise, appoint as such special deputy, special constable, marshal, policeman, or other peace officer, any person who shall not be a citizen of the United States and a resident of the state of New York, and entitled to vote therein at the time of his appointment, and a resident of the same county as the mayor or sheriff or other official making such appointment; and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constables, marshal or policeman, or other peace officer, without having first received his appointment in writing from the authority lawfully appointing him.

A violation of the provisions of this section is a misdemeanor.

§ 1846. Making arrest without lawful authority.—Any person who shall, in this state, without due authority, exercise, or attempt to exercise the functions of, or hold himself out to any one as a deputy sheriff, marshal, or policeman, constable or peace officer, or any public officer, or person pretending to be a public officer, who, unlawfully, under the pretense or color of any process, arrests any person or detains him against his will, or seizes or levies upon any property, or dispossesses any one of any lands or tenements without a regular process therefor, is guilty of a misdemeanor. But nothing herein contained shall be deemed to affect, repeal or abridge the powers authorized to be exercised under sections one hundred and two, one hundred and four, one hundred and sixty-nine, one hundred and eighty-three, eight hundred and ninety-five, eight hundred and ninety-six and eight hundred and ninety-seven of the code of criminal procedure; or under section ninety of the railroad law; or under section eleven hundred and forty-seven of this chapter. All places kept for summer resorts and the grounds of racing associations in the counties of New York, Kings and Westchester, are hereby exempted from the provisions of this section.

Compare Railroad Law, § 88, p. 309, *ante*.

REGULATION OF EMPLOYMENT AGENCIES, BOARDING HOUSES, ETC.*

EMPLOYMENT AGENCIES IN CITIES

[The original act, L. 1904, ch. 432, afterwards amended by L. 1906, ch. 327, from which the following sections were derived, was held to be a constitutional exercise of the police power: *People ex rel. Armstrong v. Warden of the City Prison*, 183 N. Y. 223 (1905).]

The department of licenses of New York City, created by L. of 1914, ch. 475, has jurisdiction "of all licenses issued under the provisions of article eleven of the General Business Law, so far as it applies to the city of New York." (Greater New York charter, § 641, subds. 3, 5.)

GENERAL BUSINESS LAW, CHAPTER 20 OF THE CONSOLIDATED LAWS

ARTICLE 11

[As am'd by L. 1910, ch. 700]

Employment Agencies

Section 170. Application of article.

- 171. Definitions.
- 172. License required.
- 173. Application for license.
- 174. Procedure upon application; grant of license.
- 175. Form and contents of license.
- 176. Assignment or transfer of license; change of location.
- 177. Bonds and license fees.
- 178. Action on bond.
- 179. Registers to be kept.
- 180. Statements to be filed in theatrical employment agencies.
- 181. Card to be furnished to applicant for employment.
- 182. Employment contracts.
- 183. Theatrical employment contracts.
- 184. Inspection of registers, books and records.
- 185. Fees charged by persons conducting employment agencies.
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§ 170. Application of article.—1. This article shall apply to all cities of the state, except that the provisions hereof relating to domestic and commercial employment agencies shall not apply to cities of the third class. This article does not apply to employment agencies which procure employment for persons as teachers exclusively, or employment for persons in technical or executive positions in recognized educational institutions; to registries conducted by duly incorporated associations of registered nurses; and employment bureaus conducted by registered medical institutions or duly incorporated hospitals. Nor does such article apply to departments or bureaus maintained by persons for the purpose of securing help or employees, where no fee is charged.

* Compare Article 5-a, Bureau of Employment, and § 156 of the Labor Law, pp. 41-43, 112-114, *ante*, regulating immigrant lodging places.

§ 171. Definitions.—1. When used in this article the following terms are defined as herein specified. The term “person” means and includes any individual, company, society, association, corporation, manager, contractor, subcontractor or their agents or employees.

2. The term “employment agency” means and includes the business of conducting, as owner, agent, manager, contractor, subcontractor or in any other capacity an intelligence office, domestic and commercial employment agency, theatrical employment agency, general employment bureau, shipping agency, nurses’ registry, or any other agency or office for the purpose of procuring or attempting to procure help or employment or engagements for persons seeking employment or engagements, or for the registration of persons seeking such help, employment or engagement, or for giving information as to where and of whom such help, employment or engagement may be procured, where a fee or other valuable consideration is exacted, or attempted to be collected for such services, whether such business is conducted in a building or on the street or elsewhere.

3. The term “theatrical employment agency” means and includes the business of conducting an agency, bureau, office or any other place for the purpose of procuring or offering, promising or attempting to provide engagements for circus, vaudeville, theatrical and other entertainments or exhibitions or performances, or of giving information as to where such engagements may be procured or provided, whether such business is conducted in a building, on the street or elsewhere.

4. The term “theatrical engagement” means and includes any engagement or employment of a person as an actor, performer or entertainer in a circus, vaudeville, theatrical and other entertainment, exhibition or performance.

5. The term “emergency engagement” means and includes an engagement which has to be performed within twenty-four hours from the time when the contract for such engagement is made.

6. The term “fee” means and includes any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting an employment agency of any kind under the provisions of this article. Such term includes any excess of money received by any such person over what has been paid out by him for the transportation, transfer of baggage, or board and lodging for any applicant for employment; such term also includes the difference between the amount of money received by any such person who furnishes employees, performers or entertainers for circus, vaudeville, theatrical and other entertainments, exhibitions or performances, and the amount paid by him to the said employees, performers or entertainers whom he hires or provides for such entertainments, exhibitions or performances.

7. The term “privilege” means and includes the furnishing of food, supplies, tools or shelter to contract laborers, commonly known as commissary privileges.

§ 172. License required.—A person shall not open, keep, maintain or carry on any employment agency, as defined in the preceding section, unless he shall have first procured a license therefor as provided in this article from the mayor or the commissioner of licenses of the city in which such person

intends to conduct such agency. Such license shall be posted in a conspicuous place in said agency. Any person who shall open or conduct such an employment agency without first procuring said license shall be guilty of a misdemeanor and shall be punishable by a fine of not less than twenty-five dollars and not more than two hundred and fifty dollars, or by imprisonment for a period of not more than one year, or both, at the discretion of the court.

See requirement of registration with state commissioner of labor under § 155 of the Labor Law, p. 111, *ante*.

§ 173. Application for license.—An application for such license shall be made to the mayor or commissioner of licenses, in case such office shall have been established as herein provided. Such application shall be written and in the form prescribed by the mayor or commissioner of licenses, and shall state the name and address of the applicant; the street and number of the building or place where the business is to be conducted; whether the applicant proposes to conduct a lodging house for the unemployed separate from the agency which he proposes to conduct; the business or occupation engaged in by the applicant for at least two years immediately preceding the date of the application. Such application shall be accompanied by the affidavits of at least two reputable residents of the city to the effect that the applicant is a person of good moral character.

§ 174. Procedure upon application; grant of license.—Upon the receipt of an application for a license the mayor or commissioner of licenses shall cause the name and address of the applicant, and the street and number of the place where the agency is to be conducted, to be posted in a conspicuous place in his public office. The said mayor or commissioner of licenses shall investigate or cause to be investigated the character and responsibility of the applicant and shall examine or cause to be examined the premises designated in such application as the place in which it is proposed to conduct such agency. Any person may file, within one week after such application is so posted in the said office, a written protest against the issuance of such license. Such protest shall be in writing and signed by the person filing the same or his authorized agent or attorney, and shall state reasons why the said license should not be granted. Upon the filing of such protest the mayor or commissioner of licenses shall appoint a time and place for the hearing of such application, and shall give at least five days' notice of such time and place to the applicant and person filing such protest. The said mayor or commissioner of licenses may administer oaths, subpoena witnesses and take testimony in respect to the matters contained in such application and protest or complaints of any character for violations of this article, and may receive evidence in the form of affidavits pertaining to such matters. If it shall appear upon such hearing or from the inspection or examination made by the said mayor or commissioner of licenses that the said protest is sustained or that the applicant is not a person of good character, or that the place where such agency is to be conducted is not a suitable place therefor, or that the applicant has not complied with the provisions of this article, the said application shall be denied and a license

shall not be granted. Each application should be granted or refused within thirty days from the date of its filing. The license shall run to the first Tuesday of May next following the date thereof and no later, unless sooner revoked by the mayor or the commissioner of licenses. No license shall be granted to a person to conduct the business of an employment agency in rooms used for living purposes or where boarders or lodgers are kept or where meals are served or where persons sleep or in connection with a building or premises where intoxicating liquors are sold to be consumed on the premises, excepting cafes and restaurants in office buildings.

§ 175. Form and contents of license.— Every license shall contain the name of the person licensed, a designation of the city, street and number of the house in which the person licensed is authorized to carry on the said employment agency, and the number and date of such license. Such license shall not be valid to protect any other than the person to whom it is issued or any place other than that designated in the license and shall not be transferred or assigned to any other person unless consent is obtained from the mayor or commissioner of licenses, as hereinafter provided. If such licensed person shall conduct a lodging house for the unemployed separate and apart from such agency, it shall be so designated in the license.

§ 176. Assignment or transfer of license; change of location.— A license granted as provided in this article shall not be assigned or transferred without the consent of the mayor or commissioner of licenses. Applications for such consent shall be made in the same manner as an application for a license, and all the provisions of sections one hundred and seventy-three and one hundred and seventy-four relating to the granting of applications for licenses, including the procedure upon such application and the posting of the names and addresses of applicants shall apply to applications for such consent. No license fee shall be required upon such assignment or transfer. The location of an employment agency shall not be changed without the consent of the mayor or commissioner of licenses, and such change of location shall be indorsed upon the license.

§ 177. Bonds and license fees.— 1. Every person licensed under the provisions of this act to carry on the business of an employment agency shall pay to the mayor or the commissioner of licenses a license fee of twenty-five dollars before such license is issued. He shall also deposit before such license is issued, with the commissioner of licenses, in every city where there is a commissioner of licenses, or clerk of the city, a bond in the penal sum of one thousand dollars with two or more sureties or a duly authorized surety company, to be approved by the mayor or the commissioner of licenses.

2. The bond executed as provided in the preceding subdivision of this section shall be payable to the people of the city in which any such license is issued and shall be conditioned that the person applying for the license will comply with this article, and shall pay all damages occasioned to any person by reason of any misstatement, misrepresentation, fraud or deceit, or any unlawful act or omission of any licensed person, his agents or employees, while acting within the scope of their employment, made, committed or omitted in the business conducted under such license, or caused by any other violation of this article in carrying on the business for which such license is granted.

3. If at any time, in the opinion of the mayor, or the commissioner of licenses, the sureties or any of them shall become irresponsible the person holding such license shall, upon notice from the mayor or the commissioner of licenses, give a new bond, subject to the provisions of this section. The failure to give a new bond within ten days after such notice, in the discretion of the mayor or commissioner of licenses, shall operate as a revocation of such license and the license shall be thereupon returned to the mayor or the commissioner of licenses who shall destroy the same.

§ 178. Action on bond; suits how brought.—All claims or suits brought in any court against any licensed person may be brought in the name of the person damaged upon the bond deposited with city by such licensed person as provided in section one hundred and seventy-seven and may be transferred and assigned as other claims for damages in civil suits. The amount of damages claimed by plaintiff, and not the penalty named in the bond, shall determine the jurisdiction of the court in which the action is brought. Where such licensed person has departed from the state with intent to defraud his creditors or to avoid the service of a summons in an action brought under this section, service shall be made upon the surety as prescribed in the code of civil procedure. A copy of such summons shall be mailed to the last known post-office address of the residence of the licensed person and the place where he conducted such employment agency, as shown by the records of the mayor or commissioner of licenses. Such service thereof shall be deemed to be made when not less than the number of days shall have intervened between the dates of service and the return of the same as provided by the civil procedure for the particular court in which suit has been brought.

§ 179. Registers to be kept.—It shall be the duty of every licensed person to keep a register, approved by the mayor or the commissioner of licenses, in which shall be entered, in the English language, the date of the application for employment; the name and address of the applicant to whom employment is promised or offered, or to whom information or assistance is given in respect to such employment; the amount of the fee received, and whenever possible, the names and addresses of former employers or persons to whom such applicant is known. Such licensed person shall also enter in the same or in a separate register, approved by the mayor or commissioner of licenses, in the English language, the name and address of every applicant accepted for help, the date of such application, kind of help requested, the names of the persons sent, with the designation of the one employed, the amount of the fee received and the rate of wages agreed upon. No such licensed person, his agent or employees, shall make any false entry in such registers. It shall be the duty of every licensed person, whenever possible, to communicate orally or in writing with at least one of the persons mentioned as references for every applicant for work in private families, or employed in a fiduciary capacity, and the result of such investigation shall be kept on file in such agency; provided, that if the applicant for help voluntarily waives in writing such investigation of references by the licensed person, failure on the part of the licensed person to make such investigation shall not be deemed a violation of this section.

See also requirements as to registration in §§ 66-p and 155 of the Labor Law, pp. 43, 111, *ante*.

§ 180. Statements to be filed in theatrical employment agencies.— Every licensed person conducting a theatrical employment agency, before making a theatrical engagement, except an emergency engagement, for any person with any applicant for services in any such engagement shall prepare and file in such agency a written statement signed and verified by such licensed person setting forth how long the applicant has been engaged in the theatrical business. Such statement shall set forth whether or not such applicant has failed to pay salaries or left stranded any companies, in which such applicant and, if a corporation any of its officers or directors, have been financially interested during the five years preceding the date of application and, further, shall set forth the names of at least two persons as references. If such applicant is a corporation, such statement shall set forth the names of the officers and directors thereof and the length of time such corporation or any of its officers has been engaged in the theatrical business and the amount of its paid-up capital stock. If any allegation in such written, verified statement is made upon information and belief, the person verifying the statement shall set forth the sources of his information and the grounds of his belief. Such statement so on file shall be kept for the benefit of any person whose services are sought by any such applicant as employer.

§ 181. Card to be furnished to applicant for employment.— Every such licensed person shall give to each applicant for domestic or commercial employment a card or printed paper containing the name of the applicant, the name and address of such employment agency and the written name and address of the person to whom the applicant is sent for employment; kind of services to be performed; rate of wages or compensation; the time of such services, if definite, and if indefinite, to be so stated; and the name and address of person authorizing the hiring of such applicant, and the cost of transportation if the services are required outside of the city where such agency is located.

§ 182. Employment contract.— A licensed person shall not induce or attempt to induce any employee to leave his employment with a view to obtaining other employment through such agency. Whenever such licensed person or any other acting for him, agrees to send one or more persons to work as contract laborers in any one place outside the city in which such agency is located, the said licensed person shall file with the mayor or commissioner of licenses, within five days after the contract is made, a statement containing the following items: Name and address of the employer; name and address of the employee; nature of the work to be performed, hours of labor; wages offered, destination of the persons employed, and terms of transportation. A duplicate copy of this statement shall be given to the applicant for employment, in a language which he is able to understand, before he leaves the city.

§ 183. Theatrical employment; contracts.— Every licensed person who shall procure for or offer to an applicant a theatrical engagement shall have executed in duplicate a contract containing the name and address of the applicant; the name and address of the employer of the applicant and of the person acting for such employer in employing such applicant; the time and dura-

tion of such engagement; the amount to be paid to such applicant; the character of entertainment to be given or services to be rendered; the number of performances per day or per week that are to be given by said applicant; if a vaudeville engagement, the name of the person by whom the transportation is to be paid, and if by the applicant, either the cost of the transportation between the places where said entertainment or services are to be given or rendered, or the average cost of transportation between the places where such services are to be given or rendered; and if a dramatic engagement the cost of transportation to the place where the services begin if paid by the applicant; and the gross commission or fees to be paid by said applicant and to whom. Such contracts shall contain no other conditions and provisions except such as are equitable between the parties thereto and do not constitute an unreasonable restriction of business. The form of such contract shall be first approved by the mayor or commissioner of licenses and his determination shall be reviewable by certiorari. One of such duplicate contracts shall be delivered to the person engaging the applicant and the other shall be retained by the applicant. The licensed person procuring such engagement for such applicant shall keep on file or enter in a book provided for that purpose a copy of such contract.

§ 184. **Inspection of registers, books and records.**—All registers, books, records and other papers required to be kept pursuant to this article in any employment agency shall be open at all reasonable hours to the inspection of the mayor or commissioner of licenses, and to any duly authorized agent or inspector of such mayor or commissioner.

See also power of state commissioner of labor to inspect in §§ 153 and 155 of Labor Law, pp. 109-112, *ante*.

§ 185. **Fees charged by persons conducting employment agencies.**—1. The gross fees of licensed persons charged to applicants for employment as lumbermen, agricultural hands, coachmen, grooms, hostlers, seamstresses, cooks, waiters, waitresses, scrub-women, laundresses, maids, nurses (except professionals), and all domestics and servants, unskilled workers and general laborers, shall not in any case exceed ten per centum of the first month's wages, and for all other applicants for employment, shall not exceed the amount of the first week's wages or salary unless the period of employment is for at least one year, and at a yearly salary, and in that event the gross fee charged shall not exceed five per centum of the first year's salary, except when the employment or engagement is of a temporary nature, not to exceed in any single contract one month, then the fee shall not exceed ten per centum of the salary paid.

2. The gross fees of licensed persons charged to applicants for theatrical engagements by one or more such licensed persons, individually or collectively procuring such engagements, except vaudeville or circus engagements, shall not in any case exceed the gross amount of five per centum of the wages or salary of the engagement when the engagement is less than ten weeks; and an amount of five per centum of the salary or wages per week for ten weeks of a season's engagement constituting ten weeks or more. The gross fees charged by such licensed persons to applicants for vaudeville or circus engagements by one or more such licensed persons, in-

dividually or collectively, procuring such engagement, shall not in any case exceed five per centum of the salary or wages paid. The gross fees for a theatrical engagement, except an emergency engagement, shall be due and payable at the end of each week of the engagement, and shall be based on the amount of compensation actually received for such engagement, except when such engagement is unfulfilled through any act within the control of the applicant for such engagement.

3. A licensed person conducting any employment agency under this article shall not receive or accept any valuable thing or gift as a fee or in lieu thereof. No such licensed person shall divide or share, either directly or indirectly, the fees herein allowed, with contractors, subcontractors, employers or their agents, foremen or any one in their employ, or if the contractors, subcontractors or employers be a corporation, any of the officers, directors or employees of the same to whom applicants for employment or theatrical engagements are sent.

4. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction of any licensed person for any violation thereof shall be subject to a fine of not less than twenty-five dollars and not more than two hundred and fifty dollars, or imprisonment for not more than one year, or both, at the discretion of the court, and the mayor or commissioner of licenses shall forthwith cancel and revoke the license of such person.

§ 186. Return of fees.—1. In case a person applying for help or employment of a domestic or commercial employment agency shall not accept help or obtain employment through such agency, then the licensed person conducting such agency shall on demand repay the full amount of the said fee, allowing three days' time to determine the fact of the applicant's failure to obtain help or employment. If an employee furnished fails to remain one week in the situation, a new employee shall be furnished to the applicant for help if he so elects, or three-fifths of the fee returned, within four days of demand; provided said applicant for help notifies said licensed person within thirty days of the failure of the applicant to accept the position or of the applicant's discharge for cause. If the employee is discharged within one week without said employee's fault another position shall be furnished, or three-fifths of the fee returned to the applicant for employment if he so elects. Failure of said applicant for help to notify said licensed person that such has been obtained through means other than said agency shall entitle said licensed person to retain or collect three-fifths of the said fee.

2. No such licensed person shall send out any applicant for employment without having obtained, either orally or in writing, a bona fide order therefor, and if it shall appear that no employment of the kind applied for existed at the place to which said applicant was directed, the said licensed person shall refund to such applicant within three days of demand any sums paid by said applicant for transportation in going to and returning from said place, and all fees paid by said applicant.

§ 187. Receipt for fees paid.—It shall be the duty of every such licensed person conducting an employment agency to give every applicant for em-

ployment from whom a fee shall be received a receipt in which shall be stated, the name of said applicant, the date and amount of the fee, and the purpose for which it was paid, and to every applicant for help a receipt stating the name and address of said applicant, the date and amount of the fee, and the kind of help to be provided. Every such receipt, excepting those given by theatrical employment agencies, shall have printed on the back thereof a copy of sections one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven, in the English language and in any language which the person to whom the receipt is issued can understand.

§ 188. Copies of law to be posted.—Every licensed person shall post in a conspicuous place in each room of such agency sections one hundred and seventy-eight, one hundred and eighty, one hundred and eighty-one, one hundred and eighty-two, one hundred and eighty-three, one hundred and eighty-five, one hundred and eighty-six, one hundred and eighty-seven and one hundred and eighty-nine, of this article, which shall be printed in large type in languages in which persons commonly doing business with such office can understand. Such printed law shall also contain the name and address of the officer charged with the enforcement of this article in such city.

§ 189. False or misleading advertisements and information.—No licensed person conducting any employment agency shall publish or cause to be published any false or fraudulent or misleading information, representation, notice or advertisement; all advertisements of such employment agency by means of cards, circulars, or signs and in newspapers and other publications, and all letter heads, receipts and blanks shall be printed and contain the licensed name and address of such employment agent and the word agency, and no licensed person shall give any false information, or make any false promise or false representation concerning an engagement or employment to any applicant who shall register or apply for an engagement or employment or help.

§ 190. Prohibitions as to employment agencies.—No licensed person conducting an employment agency shall send or cause to be sent any female as a servant, employee, inmate, entertainer or performer, or any male as an employee or entertainer to any place of bad repute, house of ill-fame, or assignation house, or to any house or place of amusement kept for immoral purposes, or place resorted to for the purposes of prostitution, or gambling house, the character of which such licensed person could have ascertained upon reasonable inquiry. No licensed person shall send out any female applicant for employment, without making a reasonable effort to investigate the character of the employer. Nor shall any such licensed person send any female as an entertainer or performer to any place where such female will be required or permitted to sell, offer for sale or solicit the sale of intoxicating liquors to those present or assembled as an audience or otherwise in such place or in any rooms or buildings adjacent thereto. No licensed person shall knowingly permit any persons of bad character, prostitutes, gamblers, intoxicated persons or procurers to frequent such agency. No licensed person shall accept any application for employment made by or on behalf of any child or shall place or assist in placing any such child in any employ-

ment whatever in violation of article twenty of the education law, relating to compulsory education, and in violation of the labor law. No licensed person, his agents, servants or employees shall induce or compel any person to enter such agency for any purpose, by the use of force or by taking forcible possession of said person's property. No person shall procure or offer to procure help or employment in rooms or on premises where intoxicating liquors are sold to be consumed on the premises whether or not dues or a fee or privilege are exacted, charged or received directly or indirectly, except in office buildings in which are located cafes and restaurants. For the violation of any of the foregoing provisions of this section the penalties shall be a fine of not less than twenty-five dollars, and not more than two hundred and fifty dollars, or imprisonment for a period of not more than one year, or both, at the discretion of the court.

§ 191. Enforcement of provisions of this article.— 1. In cities of the second and third class and in cities of the first class having a population of less than three hundred thousand, this article, so far as it relates to such cities, shall be enforced by the mayor or an officer appointed by him.

2. In cities of the first class having a population of three hundred thousand or more the enforcement of this article so far as it relates to such cities shall be intrusted to a commissioner to be known as a commissioner of licenses, who shall be appointed by the mayor, and whose salary, together with those of a deputy commissioner, and inspectors to be appointed by him, shall be fixed by the board of estimate and apportionment. Said commissioner of licenses and deputy commissioner shall have no other occupation or business. The commissioner of licenses shall appoint inspectors, who shall make at least bi-monthly visits to every such agency. Said inspectors shall have suitable badges which they shall exhibit on demand of any person with whom they may have official business. Such inspectors shall see that all the provisions of this article, so far as it relates to such cities, are complied with, and shall have no other occupation or business.

3. Complaints against any such licensed person shall be made orally or in writing to the mayor or commissioner of licenses, or be sent in an affidavit form without appearing in person, and reasonable notice thereof, not less than one day, shall be given in writing to said licensed person by serving upon the licensed person either personally or by leaving the same with the person in charge of his office, a concise statement of the facts constituting the complaint, and a hearing pursuant to the powers granted to the mayor or commissioner of licenses as provided in section one hundred and seventy-four shall be had before the mayor or commissioner of licenses within one week from the date of the filing of the complaint and no adjournment shall be taken for a period longer than one week. A daily calendar of all hearings shall be kept by the mayor or commissioner of licenses and shall be posted in a conspicuous place in his public office for at least one day before the date of such hearings. The mayor or commissioner of licenses shall render his decision within eight days from the time the matter is finally submitted to him. Said mayor or commissioner of licenses shall keep a record of all such complaints and hearings. The said mayor or commissioner of licenses may refuse to issue and shall revoke any license for any good cause shown, within the meaning and purpose of this article and when it is shown to the

satisfaction of the mayor or commissioner of licenses that any licensed person is guilty of any immoral, fraudulent or illegal conduct in connection with the conduct of said business, it shall be the duty of the mayor or the commissioner of licenses to revoke the license of such person; but notice of the charges shall be presented and reasonable opportunity shall be given said licensed person to defend himself. Whenever said mayor or commissioner of licenses shall refuse to issue or shall revoke the license of an employment agency, said determination may be reviewed by certiorari. Whenever for any cause such license is revoked, said mayor or commissioner of licenses shall not within three years from the date of such revocation issue another license to said licensed person or his representative or to any person with whom he is to be associated in the business of furnishing employment, help or engagements. In the absence of the commissioner of licenses, the deputy commissioner of licenses may conduct hearings and act upon applications for licenses, and revoke such licenses. [*Subd. 3, as am'd by L. 1912, ch. 261.*]

§ 192. Penalties for violations.—The violation of any provision of this article except as otherwise provided in this article shall be punishable by a fine not to exceed twenty-five dollars, and any city magistrate, police justice, justice of the peace, or any inferior magistrate having original jurisdiction in criminal cases, shall have power to impose said fine, and in default of payment thereof to commit the person so offending for a period not exceeding thirty days. The said mayor or commissioner of licenses or any person, his agent or attorney, aggrieved because of the violations of this article shall institute criminal proceedings for its enforcement before any court of competent jurisdiction.

PENAL LAW, CHAPTER 40 OF THE CONSOLIDATED LAWS

§ 950. False statements in regard to employment.—Any person, firm, association or corporation, or any employee or agent thereof, who makes to any person furnishing or seeking employment any statement which is false, knowing the same to be false, in regard to any employment, work or situation, its nature, location, duration, wages, or salary attached thereto, or the circumstances surrounding the said employment, work, or situation, or who shall offer or hold himself out as in a position to secure or furnish employment without having an order therefor or such employment to be filled or shall misrepresent any other material matter in connection with said employment, work, or situation, and by reason of such statement, offer, holding out or misrepresentation, any person shall seek the employment, work or situation, in respect to which such statement, offer, holding out or misrepresentation was made, shall be guilty of a misdemeanor. [*Added by L. 1911, ch. 575.*]

LICENSING OF SAILORS' BOARDING HOUSES *

LAWS OF 1882, CHAPTER 410 (THE NEW YORK CITY CONSOLIDATION ACT)

§ 2069. It shall not be lawful for any person, except a pilot or public officer, to board, or attempt to board, a vessel arriving in the port or harbor of New York before such vessel shall have been made fast to the wharf, without first

* Cf. § 156 of the Labor Law, p. 112, *ante*; relative to licensing of immigrant lodging places.

obtaining leave from the master or person having charge of such vessel, or leave in writing from her owners or agents.

§ 2070. It shall not be lawful for any person to board or attempt to board any vessel arriving in or lying or being in the harbor or port of New York, with intent to supply liquors by sale, gift or otherwise, directly or indirectly, to any member of the crew employed on board of such vessel. [*As am'd by L. 1909, ch. 353.*]

§ 2071. It shall not be lawful for any person having boarded any vessel in the port of New York, to neglect or refuse to leave said vessel after having been ordered so to do by the master or person having charge of such vessel. [*As am'd by L. 1909, ch. 353.*]

§ 2072. It shall not be lawful for any person to keep, conduct, or carry on, either as owner, proprietor, agent, or otherwise, any sailors' boarding-house or sailors' hotel in the city of New York, without having the license in this chapter provided.

§ 2073. It shall not be lawful for any person not having the license in this chapter provided, or not being the regular agent, runner, or employee of a person having such a license, to invite, ask, or solicit, in the city or harbor of New York, the boarding or lodging of any of the crew employed on any vessel.

§ 2074. There is created a board denominated a board of commissioners for licensing sailors' hotels or boarding-houses in the city of New York consisting of one person selected by each of the following corporate bodies or associations, respectively, to-wit: The Chamber of Commerce of the State of New York; the American Seamen's Friend Society in New York; the New York Board of Underwriters; the Marine Society of New York; the Society for Promoting the Gospel Among Seamen in the Port of New York; the New York Maritime Association of the Port of New York; the Seamen's Church Institute of New York; the Seamen's Christian Association of the City of New York, and St. Peter's Union for Catholic Seamen. [*As am'd by L. 1909, ch. 353.*]

§ 2075. Such board shall take the application of any person applying for a license to keep a sailors' boarding-house, or sailors' hotel, in the city of New York, and upon satisfactory evidence to them of the respectability and competency of such applicant, and of the suitableness of his accommodations, shall issue to him a license, which shall run to the first Tuesday of May next ensuing the date thereof and no longer, unless sooner revoked by said board, to keep a sailors' boarding-house in the city and to invite and solicit boarders for the same within the limitations of the state and federal laws relating thereto. [*As am'd by L. 1909, ch. 353.*]

§ 2076. Such board may, upon satisfactory evidence of the disorderly character of any sailors' hotel or boarding-house, licensed as hereinbefore provided, or of the keeper or proprietor of any such house, or of any force, fraud, deceit, or misrepresentation in inviting or soliciting boarders or lodgers for such house, on the part of such keeper or proprietor, or of any of his agents, runners, or employees, or of any attempt to persuade or entice or force any of the crew to desert from or to serve involuntarily on any vessel in the harbor of New York, by such keeper or proprietor, or any of his agents, runners, or employees, revoke the license for keeping such house after notice to the licensee

and a hearing thereon and each member of said board is hereby authorized to administer oaths and take and receive evidence in all matters provided for herein. [*As am'd by L. 1909, ch. 353.*]

§ 2077. Every person receiving the license hereinbefore provided for shall pay to the board of commissioners aforesaid the sum of twenty-five dollars for each full year and a proportionate amount for a shorter period which amounts after deducting the actual expenses of said board incurred in the transaction of the business shall be by them applied for the relief of shipwrecked and destitute seamen. Said board shall file on or before the second Monday of January of each year, in the office of the clerk of the city and county of New York, a statement showing the number of licenses issued, the names of persons to whom issued, with name and number of the street or house licensed during the year preceding, the amount of money received therefor, the amount and items of their disbursements, and the amount distributed by them as hereinbefore directed. [*As am'd by L. 1909, ch. 353.*]

§ 2078. The said board shall appoint a president and secretary and shall keep an office in the city of New York, and make such by-laws and regulations as may be needful for the orderly conduct of its business, not inconsistent with the constitution and laws of this state.

§ 2079. The said board shall furnish to each sailors' hotel or boarding-house keeper, licensed by them as aforesaid, one or more badges or shields, on which shall be printed or engraved the name of such hotel or boarding-house keeper, and the number and street of his hotel or boarding-house; and which said badges or shields shall be surrendered to said board upon the revocation by them or expiration of any license granted by them as herein provided.

§ 2080. Every sailors' hotel or boarding-house keeper, and every agent, runner, or employee of such hotel or boarding-house keepers, when boarding any vessel, in the harbor of New York, or when inviting or soliciting the boarding or lodging of any seaman, sailor, or person employed on any vessel, shall wear conspicuously displayed the shield or badge referred to in the foregoing section.

§ 2081. It shall not be lawful for any person, except those named in the preceding section, to have, wear, exhibit, or display any such shield or badge to any of the crew employed on any vessel with the intent to invite, ask, or solicit the boarding or lodging of any of the crew employed on any vessel being in the harbor of New York.

§ 2082. Whoever shall offend against any or either of the provisions contained in sections two thousand and sixty-nine to two thousand and seventy-three, inclusive, or two thousand and eighty or two thousand and eighty-one, of this act, and any commissioner appointed under this chapter who shall directly or indirectly receive any gratuity or reward, other than as herein provided for, or on account of any license under this chapter shall be deemed guilty of a misdemeanor. [*As am'd by L. 1909, ch. 353.*]

§ 2083. The word "vessel," as used in this chapter shall include vessels by whatever power propelled. The word "sailor" and the word "seamen" as used in this chapter shall include any person not an officer employed on any vessel. The word "boarding-house" as used in this chapter shall include a house where both board and lodgings are given or a house where lodgings

alone are given. The word "hotel" as used in this chapter shall include a house where lodgings alone are given or a house where both board and lodgings are given. [*As am'd by L. 1909, ch. 353.*]

§ 2084. The president of the trustees of the Seamen's fund and retreat in the city of New York shall demand and be entitled to receive, and in case of neglect or refusal to pay, shall, in the name of the people of the state of New York, sue for and recover the following sums from either the owner or owners, or from the master, or from both the owner or owners and master, of every vessel from a foreign port; for the master, one dollar and fifty cents; for each mate, sailor, or mariner, one dollar. Second, from the master of each coasting vessel, from each person on board composing the crew of such vessel, twenty-five cents; but no coasting vessel from the state of New Jersey, Connecticut, or Rhode Island shall pay for more than one voyage in each month, computing from the first voyage in each year. And the said president may sue for the penalties imposed by law on masters of coasting vessels for nonpayment of hospital money.

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